

6 AUGUST 1946

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of
WITNESSES

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Tuesday, 6 August, 1946

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment, at 0930.

Appearances:

For the Tribunal, same as before.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese

to English interpretation was made by the Language Section, IMTIE.)

POWELL

DIRECT

G 1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Do counsel desire to mention
4 any matter?

5 Judge McKenzie.

6 JOHN B. POWELL, called as a witness
7 on behalf of the prosecution, resumed the stand
8 and testified as follows:

9 DIRECT EXAMINATION (Continued)

10 BY MR. MCKENZIE:

11 Q Mr. Powell, do you know the given name of the
12 DOHIHARA to whom you referred yesterday in your testi-
13 mony?

14 A Yes. Kenji.

15 Q Is he one of the accused on trial at this time?

16 A Yes.

17 Q Did you answer?

18 A Yes.

19 Q Referring now to the exhibit which you saw
20 outside of General HONJO's office, do you recall the
21 approximate size of the piece of rail displayed there?

22 THE PRESIDENT: How far are you going to carry
23 this? We have no interest in the size of the rail
24 unless you are going to establish conclusively that it
25 was a fake. There is a limit to the amount of time.

POWELL

DIRECT

1 we can give even to the Manchurian Incident. Give us
2 something useful.

3 MR. MCKENZIE: This is not new but it is merely
4 trying to clear up one or two things of yesterday, if
5 the Tribunal please.

6 Q Do you recall the name of the Chinese man you
7 saw installed as Governor of Feng-Tien Province?

8 A Yes. Tsang Shih-Yi. T-s-a-n-g S-h-i-h-Y-i.

9 MR. MCKENZIE: Defense may cross-examine.

10 MR. LEGAN: No cross-examination, your Honor.

11 COLONEL MORROW: If the Court please, at this
12 time I would like to make the opening statement con-
13 cerning the Chinese aggression phase of this case.

14 THE PRESIDENT: The witness should not be here
15 for the opening statement. Put him outside.

16 (Whereupon, the witness was excused.)

17 THE PRESIDENT: Have you finished the Manchurian
18 evidence?

19 COLONEL MORROW: I understand so. Yes, sir.

20 THE PRESIDENT: We have heard the last word
21 about the Manchurian Incident?

22 MR. MCKENZIE: If there is no cross-examination,
23 yes, your Honor.

24 THE PRESIDENT: Well, there was none.. Now you
25 may open the China Incident.

POWELL

DIRECT

1 COLONEL MORROW: If the Court please.

2 (Reading):

3 " The subject which my associates and I will
4 present covers military aggression in all China, ex-
5 cept Manchuria, consisting in planned warlike attack
6 and invasion for conquest and plunder by means of
7 modern armies, naval and air forces.

8 " The evidence which we shall present will
9 show the following:

10 " That four major invasions by the Japanese
11 armed forces were made upon the territory of
12 China and a naval blockade was imposed upon the
13 coast of China.

14 " The military aggression continued and per-
15 sisted, until by the latter phase of the Sino-Japan-
16 ese war, Japan had gained domination over coastal
17 China and the greater part of Eastern China.

18 " The conflict in Manchuria, concerning
19 which Mr. Darsey and his associates have presented
20 evidence, spread to Shanghai, and the invasion of
21 China at Shanghai on the 29th and 30th of January,
22 1932, by the Japanese armed forces, was an outgrowth
23 of the Manchurian aggression.

24 " The Japanese invading forces met an unex-
25 pectedly desperate and prolonged resistance by the

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DIRECT

Chinese 19th Route Army, which stood up to the landing party of the Japanese navy, later reinforced by the army, until a wide flank movement by newly landed Japanese troops drove the Chinese from the immediate vicinity of the international settlement, where the fighting started.

"A truce was arranged 5 May 1932, and on the 31st of the same month, the Japanese troops withdrew from Shanghai.

"The Chinese troops encountered had fought as never before, and it was their strong defense which forced a change in Japanese plans, and the temporary cessation of major military activity in Central China."

THE PRESIDENT: Is this an opening or an address? Lots of what you are saying could never be the subject of evidence. It is a matter of comment, a matter of inference.

COLONEL MORROW: Well, if the Court please, this is what we expect to prove. May I continue?

THE PRESIDENT: Yes, you may. I can't stop you if you tell me you are going to prove it all, but I will see whether you do or not later.

COLONEL MORROW: Very well, sir.

If the Court please. (Reading):

"The second military aggression in China

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DIRECT

1 started five years after the first Shanghai invasion
2 had been concluded by the truce.

3 "As in the first aggression, it will be shown
4 that the hostilities started in the dead of night,
5 when Japanese troops moved under cover of darkness
6 upon a position rightfully occupied by Chinese troops.
7 Also, as in the first aggression, the Japanese spring-
8 board was a territorial concession wrung from the im-
9 potent Manchu Empire many years ago.

10 "At the so-called Marco Polo Bridge, some
11 ten miles southwest of Peiping, the clash occurred
12 7 July 1937. Events moved swiftly. Thousands of
13 Japanese troops poured into the vicinity of Peiping
14 from Korea and Manchuria. Peiping was assaulted and
15 captured by the Japanese forces, and the Chinese army
16 driven toward the west.

17 "The Chief of the Information Bureau, Ja-
18 panese Foreign Office, later stated that the Marco
19 Polo Bridge Incident was the opening gun in a battle
20 between Japan and Chiang Kai-shek's forces for con-
21 trol of the five provinces of North China.

22 "The Marco Polo Bridge clash happened in
23 July. The 13th of August of the same year, the se-
24 cond invasion at Shanghai commenced. Japanese mili-

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1 tary aggression did not stop this time with a truce
2 at the outskirts of Shanghai, but the fertile region
3 of Central China between Shanghai and Nanking, one of
4 the world's most thickly populated plains, was over-
5 run, plundered, pillaged, bombed, burned and devas-
6 tated in an undeclared war of aggression, flaunting
7 international law and all time-honored rules of war-
8 fare.

9 "The campaign ended with the taking of Nan-
10 king, capital of China. "We shall show that the in-
11 habitants of this ancient city were subjected to
12 robbery, torture, rape, murder; that firebrand, bayo-
13 net and machine gun in the hands of sadistic mobs of
14 soldiers spelled a tale of horror without parallel
15 since the days of Attila the Hun;"

16 THE PRESIDENT: Who is going to give evidence
17 of that?

18 COLONEL MORROW: I believe some evidence,
19 if the Court please, is already in, because of that --
20 because we took some witnesses out of turn. May I
21 proceed?

22 THE PRESIDENT: Yes, but there is no reason
23 why you should not open fully by just giving us a /
24 statement of the evidence you propose to prove show-
25 ing, if necessary, the drift of that evidence without

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1 comment. You can say all these things in your final
2 address and that is the place to say it most effect-
3 ively.

4 MR. McMANUS: If your Honor please, I would
5 like my objection noted on behalf of the accused
6 ARAKI as this is unquestionably a summation and not
7 an opening statement.

8 THE PRESIDENT: I suppose you have prepared
9 to deliver this and there is translation of it which
10 is going over the IBM. But, I hope that what I say
11 will lead to revision of some of the later openings,
12 if that be necessary.

13 COLONEL MORROW: May I proceed, sir?

14 THE PRESIDENT: You may.

15 COLONEL MORROW: (Reading): "that Chinese
16 soldier prisoners of war were tied in bunches and
17 massacred in wholesale lots.

18 "Successive campaigns under Generals
19 MATSUI, HATA, and others, proceeded along railroad
20 lines, and the banks of rivers, and the coast of China
21 was blockaded by the Japanese navy. Japanese war-
22 ships ascended the Yangtze and other rivers to as-
23 sist progress of the army, and Japanese airplanes
24 bombed cities throughout that part of China not occu-
25 pied by Japanese forces.

1 "Then this undeclared war of aggression
2 reached its high-water mark, two-hundred-and-fifty-
3 million Chinese in the Eastern part of the Republic,
4 were under the domination of the Japanese army and
5 navy, and the capital of China had been moved to
6 Chungking, a city in a western province, remote
7 from the sea.

8 "Until the establishment of the puppet
9 government of China by the Japanese 30 March 1940,
10 no provisions officially were made for the custody
11 and treatment of Chinese soldier prisioners of war,
12 and you will have presented before you evidence
13 that Chinese soldiers who were captured, and those
14 suspected to have borne arms in the Chinese forces,
15 were summarily executed in a barbarous manner by
16 the Japanese armed forces, under direction of their
17 officers.

18 "A comparison of the evidence which we shall
19 produce showing the Chinese and Japanese statistics
20 of Chinese casualties for the four years of war
21 succeeding 7 July 1937, indicates that the Chinese
22 "missing" column should list as almost a million,
23 the number of those who were taken in battle by
24 the Japanese and then slain, leaving an additional
25 411,000 unaccounted for. Chinese and Japanese

1 casualty statistics can be reconciled only on this
2 assumption.

3 "This was done contrary to the laws of war,
4 to which Japan had subscribed, and the aggression
5 itself was accomplished in violation of the Nine-
6 Power Treaty, the Kellogg-Briand Pact, and other
7 treaties and assurances to which Japan was a party.

8 "Notwithstanding that this military aggres-
9 sion was studiously denominated an 'affair' by the
10 Japanese statesmen, it will be proved that 1,449,133
11 Chinese soldiers and sailors were killed in battle,
12 or missing, and that total casualties were 3,207,948
13 (Chinese figures) and vastly greater according to
14 the Japanese official estimates, in the resisting
15 of this Japanese aggression on the soil of China.
16 Also, in reckless disregard of the rights of neutrals,
17 the Japanese bombed and shelled United States and
18 British warships rightfully in Chinese waters, and
19 bombed and wounded the British ambassador while
20 proceeding in an automobile.

21 "There was a third invasion of Shanghai
22 8 December 1941, but this time the International
23 Settlement was the target, and American and British
24 there located were captured and interned.

25 "The British gunboat PETREL in the river

1 opposite the Shanghai International Settlement, was
2 sunk by shell fire from Japanese batteries and war-
3 ships. This matter will be presented later by our
4 British colleagues.

5 "The Class 'C' offenses which were committed
6 in the course of the China military aggression, and
7 which concern principally crimes against the civilian
8 population of China, and the unlawful use of opium
9 and other narcotics, will be presented by Judge
10 Che-Chun Hsiang and Mr. David N. Sutton in connection
11 with this subject.

12 "Because of their conduct in official
13 positions, in the successive Japanese governments
14 which carried out military aggression in the territory
15 of China, as well as their personal activity, par-
16 ticipation or acquiescence therein, all the defend-
17 ants are responsible for the war crimes above related,
18 and as charged in the following counts: Group 1-6,
19 19, 28; Group 2 - 45, 46, 47, 48, 49, 50; Group 3 -
20 count 54. Also the evidence relates to the following
21 appendices of the Indictment: Appendix A, section 2;
22 Appendix B, sub-paragraph 1, 2, 3, 4, 5, 6, 7, 8, 9,
23 10, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
24 33, 34, and 35; Appendix C, sub-paragraphs 4, 5,
25 6, 7 and 8; Appendix D - sub-paragraphs 1 and 2;

1 Section 4, sub-paragraph a, sections 10, 11, and 12;
2 Appendix E - especially the second (unnumbered)
3 paragraph.

4 "Evidence in support of these charges will
5 be offered through oral testimony, and by means of
6 documentary evidence, a great portion of which being
7 official utterances of the Japanese themselves."

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1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, I ask that
3 counsel's remark in his opening that these accused
4 are responsible for acquiescence in certain acts as
5 constituting a crime, I don't know of any such crime
6 alleged in the Indictment, I move that that be stricken
7 from his opening statement.

8 MR. LEVIN: Mr. President.

9 THE PRESIDENT: Mr. Levin.

10 MR. LEVIN: I move that that portion of the
11 opening statement of Colonel Morrow be stricken which
12 is not a statement of the evidence which they will
13 prove but a statement of -- but an address to the
14 Court as it is improper at this time.

15 THE PRESIDENT: Well, the Tribunal has already
16 stated when it will strike matter out of the record.
17 This is not an occasion on which we will strike matter
18 out of the record. Nevertheless, we quite appreciate
19 the objections. We can understand them. These inflam-
20 matory statements which have been indulged in by Colonel
21 Morrow certainly only tend to antagonize the Tribunal.
22 We are being treated as a jury, not as eleven sober
23 judges. The purpose of an opening is to let the Court
24 know the evidence which will be adduced. But this
25 opening statement has extended far beyond that. It

1 largely consisted of comment, comment not intended to
2 show the drift of the evidence and to enlighten us.
3 To take only two examples: What witnesses could be
4 called to tell us the Chinese fought as they never
5 fought before, and that the Japanese behaved worse
6 than Attila the Hun? Those may be the facts, but it
7 is not intended to prove them in evidence in this
8 section of the case.

9 I repeat. We resent being treated as a jury.
10 We are judges and we are going to be treated as such.

11 COLONEL MORROW: If the Court please, I would
12 like to recall Mr. Powell for testimony.

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POWELL

DIRECT

A 1 J O H N B. P O W E L L, called as a witness
b 2 on behalf of the prosecution, resumed the
r 3 stand and testified as follows:
a 4

M 5 & 6 THE PRESIDENT: You are still on your former
oath.
M 7

Morse 8 DIRECT EXAMINATION (Continued)
e 9

BY COLONEL MORROW:

Q 10 Mr. Powell, were you in Shanghai, China,
about February 1, 1932.

A 11 Yes. I hurried back to Shanghai from Man-
churia because I had become informed the situation
12 was becoming critical at Shanghai.

Q 13 How did you travel to Shanghai?

A 14 I traveled by boat by way of Dairen, stopping
15 at Ching-tao and coming into Shanghai Harbor the
16 second day.

Q 17 What did you see as you approached Shanghai?

A 18 Large numbers of Japanese destroyers at the
19 mouth of the river of Hwangpu and anchored at prac-
20 tically every buoy along the Hwangpu for a distance
21 of about 10 or 12 miles in clusters ranging from two
22 to six. Materials were being loaded at the jetties
23 on the Hungkow side of the river. As we neared
24 Shanghai we could see airplanes over the so-called
25 Chapei Airfield of Shanghai, bombing at that time

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1 the works of the Commercial Press, which is the
2 largest printing establishment and employed thousands
3 of laborers and had a large installation in that area,
4 and they were bombing that section. Serious fighting
5 had already developed in that area, that is, Northern
6 Hungkow, and in the Yang-Shu-pu area of northern
7 Shanghai and in the Chapei area. That fighting
8 lasted until May and resulted in the devastation of
9 an area about a mile wide I should say and two miles
10 long, which is quite reminiscent of scenes in Tokyo
11 today.

12 Q How many soldiers and sailors of the Japanese
13 Army and Navy do you estimate were concerned in this
14 operation?

15 A It started as a naval enterprise and --
16 well, it is difficult to say. There were thousands
17 of men involved. Finally the army came in at the
18 end before it was finally adjusted.

19 Q With what arms and equipment were these
20 Japanese troops and naval forces armed?

21 A Well, as we could see coming in, there were
22 large naval equipment there; a large number of boats,
23 mainly destroyers, and airplanes were being used at
24 the beginning. Of course, trucks were being used.
25 I think at the real beginning -- they used armored

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1 trucks at the very start, when the Japanese tried
2 to occupy the Shanghai North Railway Station and were
3 repulsed. Later on when the army came in, the army
4 came in with full equipment, including tanks and
5 artillery, and later heavier ships, cruisers, and
6 there was shelling across the city.

7 Q How long did this military operation con-
8 tinue?

9 A I think it continued until the end of May.
10 Extraordinary efforts were made on the part of the
11 Powers, everybody interested in the Settlement --
12 incidentally, I see Mr. SHIGEMITSU sitting here among
13 the accused. He was the Consul General there and
14 worked very strenuously to get the thing settled, but
15 very strong efforts were made by all of the Powers to
16 settle the Shanghai affair, and finally succeeded in
17 doing so.

18 Q How much of the land of China did the
19 Japanese occupy in this operation?

20 THE PRESIDENT: Most of this evidence would
21 be more properly given by high ranking Japanese
22 sailors and soldiers, if they are available.

23 COLONEL MORROW: Well, if the Court please,
24 this is an eye witness and for that reason we
25 assumed that what he said and what he saw was of

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1 interest to this Court, and in our duty as prosecutors,
2 we thought it was our duty to present this to the
3 Court as testimony of an eye witness.

4 THE PRESIDENT: Let him give it, but you
5 know what we expect about such matters. You have to
6 convince us, not yourselves.

7 COLONEL MORROW: Does the Court rule this
8 evidence is not relevant?

9 THE PRESIDENT: No, and I said we didn't.
10 I repeat: this evidence would come more appropriately
11 from high ranking Chinese sailors and soldiers.

12 COLONEL MORROW: If there is no objection,
13 I will proceed, if your Honor please.

14 THE PRESIDENT: Proceed with it, but you
15 have to convince us, I tell you, and not yourselves.

16 Q When was the second invasion of Shanghai
17 by the Japanese?

18 A That was in 1937, following the invasion of
19 North China and the Marco Polo Bridge Incident.

20 Q How many troops, and what equipment did
21 they have?

22 A This was a much more extensive enterprise.
23 It was entirely an army show and involved extensive
24 landings of troops, beginning at Woosung and extend-
25 ing along the river, and ultimately resulting in the

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DIRECT

1 occupation of the large triangular area embraced by
2 the Cities of Shanghai, Nangking and Hangchow, I
3 should say the richest section of China north of
4 the Yangtze River.

5 Q What part did the Japanese Navy play in the
6 operation, and how many ships were present, if you
7 know?

8 A I don't know the number of ships, but a very
9 large force, including landing equipment. Incidentally,
10 there were thousands of fishing boats brought over
11 for landing enterprises.

12 Q What was the outcome of this military
13 operation?

14 A Well, the outcome was the expulsion of the
15 Chinese forces from this area and the occupation of
16 this entire district, including the Yangtze River to
17 Nanking and then across to Hangchow. It is a tri-
18 angular area, say 150 by 250 miles. It embraced
19 most of China's silk industry, a great deal of which
20 was destroyed at that time and in the later occupation.

21 Q Did you see the path of the army between
22 Shanghai and Nanking?

23 A Yes, during the progress of the fighting we
24 drove through to Nanking behind the Japanese lines
25 and we saw the results of extensive bombing of Nanking.

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DIRECT

1 The City of Soochow, about 40 or 50 miles outside
2 of Shanghai, was quite seriously -- sections of it --
3 completely destroyed, and dozens of villages,
4 smaller places, perhaps the population running up
5 to a hundred thousand -- we call them villages all
6 through that area -- were wiped out entirely. It
7 was estimated that about 3 million refugees from this
8 area flocked into the International Settlement at
9 Shanghai.

10 Q When was the third invasion of Shanghai?

11 A The third invasion of Shanghai was almost
12 on the hour of the Japanese blow at Pearl Harbor.

13 Q What part of Shanghai was invaded this time?

14 A This time the International Settlement, the
15 section of the International Settlement south of Soo-
16 chow Creek, which is called the Settlement proper.

17 However, the Hungkow and the Yang-Shu-pu areas were
18 just as much a part of the Settlement, but had pre-
19 viously been occupied and used as a base for
20 Japanese military operations into the surrounding
21 countryside. But after Pearl Harbor, at the hour
22 of Pearl Harbor, Japanese forces invaded the Inter-
23 national Settlement of Shanghai, which had been
24 inviolate up to that point.

25 Q What sort of naval and army materiel

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1 did these landing forces possess?

2 A Well, light artillery was moved into the
3 Settlement. The Settlement was awakened by artillery
4 fire, which resulted in the destruction of the British
5 gunboat Petrel, which was located in the harbor. The
6 American gunboat, the Wake, was captured, the
7 Japanese occupied it, but the Petrel was shelled and
8 sunk, and the Petrel's launches were floating about
9 the harbor ablaze. They had also been shelled. But
10 it was the use of light artillery there that awakened
11 Shanghai to the fact that the war was on.

12 Q Can you estimate how many troops the
13 Japanese employed in this operation?

14 A No. It would be very difficult to know.
15 They were -- by daylight that morning -- they were
16 in complete occupation of the entire International
17 Settlement. There was no resistance offered by the
18 Settlement.

19 Q What was the result of this last military
20 operation?

21 A Well, that was the finish of a century of
22 foreign control of the settlement of Shanghai.

23 MR. LEVIN: Mr. President, I intended to
24 object to the question on the ground it calls for a
25 conclusion, and further, now that the answer has

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DIRECT

1 been given, I ask that it be stricken, on the ground
2 that it is not responsive.

3 THE PRESIDENT: The objection is overruled.
4 It must be. The Charter makes this evidence
5 admissible, but fortunately the Charter does not say
6 what weight it should be given.

7 COLONEL MORROW: The defense may cross-
8 examine, if the Court please.

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POWELL

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THE PRESIDENT: Major Furness.

2 MR. FURNESS: I will cross-examine, sir, on
3 the first Shanghai Incident for the accused Mamoru
4 SHIGEMITSU.

CROSS-EXAMINATION

5 BY MR. FURNESS:

6 Q Mr. Powell, you stated that when you arrived
7 in Shanghai Harbor you saw troops being landed from
8 destroyers. Now, prior to that time, is it not true
9 that the only Japanese troops in Shanghai were a con-
10 tingent of Marines numbering less than one thousand?

11 A Well, I wasn't in Shanghai at the actual
12 beginning. I was in Manchuria at that time, in
13 Mukden, and it took about three days to get there.
14 My information was that the beginning had been -- was
15 not an extensive enterprise and was entirely a naval
16 enterprise and was organized inside of the Hong Kew
17 area, actually at the Japanese Club in the Hong Kew
18 section. It was a small enterprise when it started.
19 They thought they could occupy the North Station in a
20 few hours.

21 Q And before any clash occurred a state of
22 emergency had been declared by the Consular Party
23 which governed the Shanghai settlement, had it not?
24

25 A Yes.

POWELL

CROSS

1 Q And the Shanghai Volunteer Corps had been
2 mobilized for the defense of the foreign settlement,
3 had it not?

4 A Yes.

5 Q And this Volunteer Corps was international
6 in character, consisting of nationals of all the
7 interested powers, United States, Great Britain,
8 Italy, France, as well as Japan, was it not?

9 A Yes.

10 Q And it was commanded, was it not, by a
11 British general?

12 A Yes. I think General Gordon commanded it.

13 Q And the different nationals of those differ-
14 ent nations were assigned various sectors for de-
15 fense.

16 A Yes.

17 Q This state of emergency was declared by
18 this governing body because of the foreign anti-
19 Japanese agitation and sentiment among the Chinese,
20 was it not?

21 A It was a reaction resulting from the devel-
22 opments in Manchuria which had caused growing unrest
23 all over China proper and particularly acute at
24 Shanghai.

25 Q And one of the reasons for the declaration

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CROSS

1 of the state of emergency was the presence of the
2 Chinese 19th Route Army on the outskirts of Shanghai,
3 was it not?

4 A The 19th Route Army, commanded by General
5 Tsai Ting Kai, was a Cantonese Army that was transferred
6 to Shanghai. The agitation resulting from
7 the Manchurian situation had been particularly
8 acute among the Cantonese.

9 Q Now, after the Japanese forces finally
10 succeeded in defeating the Chinese forces they remained,
11 did they not, within certain well defined
12 lines; they did not enlarge into China?

13 A Yes, that's quite correct. They remained
14 in the environment and the environs of Shanghai.

15 Q Now, you testified that early in May
16 operations ended in a truce agreement. Now, was that
17 a written agreement?

18 A Yes, I understand it was a truce arranged
19 through the mediation of the Powers.

20 Q The Japanese Government stated that it was
21 willing to negotiate a truce early in March, did it
22 not?

23 A I don't remember the date, but I do know
24 that such activities were on.

25 Q Do you know what the truce agreement pro-

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CROSS

vided for?

1 A Generally, it provided for a sort of a
2 neutral zone about Shanghai.

3 Q Provided also, did it not, that the Japa-
4 nese troops should withdraw?

5 A Yes.

6 Q And the Japanese troops did withdraw, did
7 they not?

8 A Yes, that's right.

9 Q Now, in negotiating this truce, SHIGEMITSU
10 worked in close cooperation with the British and
11 American ministers, Sir Miles Lampson and Nelson
12 T. Johnson, did he not?

13 A Yes. General Frank McCoy was there also
14 as a military representative on our side. I've
15 forgotten the British representative.

16 Q And Mr. SHIGEMITSU worked in close cooper-
17 ation with them throughout these negotiations for a
18 truce, did he not?

19 A The military activities in the environs of
20 Shanghai stirred up a hornet's nest of complaints
21 about the destruction of property, particularly all
22
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POWELL

CROSS

1 through this area by these -- it is foreign property
2 I am thinking of particularly. And, in covering this
3 as newspaper reports, it was necessary to see the
4 Japanese military commander and the heads of the other
5 governments. And on the Japanese consular side we
6 frequently had conferences with Mr. SHIGEMITSU in
7 connection -- especially about claims.

8 Q And what did you observe as a result of
9 these conferences?

10 A We gained the impression that SHIGEMITSU,
11 as a civilian consul, was doing everything he could
12 to bring about an adjustment of the situation there.
13 That is, no one, I don't think, would class him as
14 an aggressive figure in these activities such as
15 the military were.

16 Q Did you also observe that he was doing
17 everything he could to prevent the hostilities
18 effecting the lives and properties of the foreign
19 settlement, the western nationals as well as Japan-
20 ese?

21 A I think that's correct. The impression
22 prevailed that he was trying to do everything he
23 could to adjust this thing.

24 Q Did you also observe his efforts to work
25 out a plan under which Chinese non-combatants could

POWELL

CROSS

1 leave the city in order to avoid being involved in
2 hostilities?

3 A I am not familiar with the details, but
4 the final settlement was generally satisfactory to
5 the foreign interests and presumably the Chinese.
6 I think everybody signed it.

7 THE PRESIDENT: We will recess now for
8 fifteen minutes.

9 (Whereupon, at 1045, a recess was
10 taken until 1100, after which the proceed-
11 ings were resumed as follows:)

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MARSHAL OF THE COURT: The Tribunal is now
1 resumed.
2
3 BY MR. FURNESS (Continuing)
4 Q Mr. Powell, do you know about the bombing
5 outrage which occurred while these negotiations were
6 in progress?
7 A I don't remember. If you can give me some details--
8 Q Do you know of the bombing which happened on
9 the Emperor's birthday, April 29, 19--
10 A Oh, yes, now I realize what you mean, the
11 Hong Kew Park Incident, of course.
12 Q Could you state what happened?
13 A This Hong Kew Park bombing took place during
14 a Japanese military celebration at the end of the Incident,
15 and the Allied Powers, all of the Powers concerned
16 in Shanghai, were invited to send their military repre-
17 sentatives. They had two reviewing platforms. The
18 one occupied by the Japanese officials, most of whom
19 were military men, was built up about six feet above the
20 ground and was crowded, quite crowded, with personnel.
21 The platform occupied by the foreign military personnel
22 was about fifty feet away and on the ground level. The
23 Japanese authorities had taken great precautions, and
24 practically everyone, particularly Japanese nationals,
25 had been searched as they came in the gate. Everyone

POWELL

CROSS

1 was very carefully examined as we came in to observe
2 this celebration. There was a double line of guards
3 around the Japanese platform. But in the midst of
4 the speech-making a man whom everyone thought was a
5 camera man pushed his way through the guards and
6 walked up directly in front of the reviewing stand
7 carrying what appeared to be a camera. He reached up
8 with this camera, supposedly to take a picture, and
9 rolled it onto the platform. The object turned out
10 to be a bomb. It rolled over about two feet from
11 the edge of the platform and exploded with a very
12 loud noise, blew a large hole in the platform and
13 also in the ground underneath. It created most ser-
14 ious carnage among the people who were on the platform.

15 Q You were an eyewitness of this; you were in
16 the park as a reporter?

17 A Yes, I was there with other newspaper men.

18 Q Mr. SHIGEMITSU was on the platform and was
19 gravely injured, was he not?

20 A Yes, Mr. SHIGEMITSU was on the platform. He
21 lost a leg as a result of that bomb.

22 Q And that occurred on the 29th, and the truce
23 agreement was signed by Mr. SHIGEMITSU in the hospital
24 on the 5th of May?

25 A Yes, I understand so.

POWELL

CROSS

1 Q Now, before the clash occurred, at the time
2 there was violent anti-Japanese agitation, the Japanese
3 had in Shanghai about 30,000 nationals and vast
4 property and commercial interests, did they not?

5 A I think that is approximately correct. The
6 Japanese population probably ranged from thirty to
7 fifty thousand at that time.

8 Q Now, in your direct examination you stated
9 that as you came into Shanghai you saw Japanese air-
10 planes over the Chapei area bombing a printing estab-
11 lishment. Do you know whether there were any Chinese
12 troops in that area and in the printing establishment?

13 A I wouldn't know from personal inspection, but
14 the Japanese claimed they were.

15 MR. FURNESS: No further questions.

16 THE PRESIDENT: Mr. McManus.

17 CROSS-EXAMINATION (Continued)

18 BY MR. McMANUS:

19 Q Mr. Powell, as a result of this incident,
20 did not the League of Nations dispatch an observer to
21 investigate the facts?

22 A You are referring to Shanghai or Manchuria?

23 Q The first Shanghai Incident.

24 A I don't remember that the League was particu-
25 larly active in the Shanghai Incident. The League was

POWELL

CROSS

involved very deeply in the Manchurian Affair. But
1 there was no pronounced League activity, I don't think,
2 at Shanghai. That was handled more by the Powers
3 directly.
4

5 Q Might it refresh your recollection if I tell
6 you that as a result of the League's action Japan was
7 permitted to maintain a garrison force in Shanghai
8 for future protection of its nationals after the
9 Shanghai Incident?

10 A I couldn't say regarding the legal elements
11 involved, but I can say that up to that time Shanghai
12 had never been regarded as a garrison town. We had
13 had on occasions -- many times in the past through the
14 period that I had lived in Shanghai there had been
15 landings of marines and naval forces for particular
16 incidents, but always withdrawn. After this occasion
17 Shanghai became a garrison town.

18 Q Well, despite this, Mr. Powell, did not
19 Japan not only make a complete withdrawal of its troops
20 but also of its garrison force in May of that same
21 year?

22 A The Japanese naval forces were withdrawn.
23 But the Japanese developed on North Su-Chuan Road at
24 the entrance of what was known as the Hong Kew Park
25 area a very heavily-garrisoned barracks and a fortified

POWELL

CROSS

1 zone, including a very elaborate Shinto shrine. All
2 of the Powers -- we sent forth marines to Shanghai,
3 the British had forces in China, which were always
4 quartered in cheap temporary wooden structures.

5 Q When was the withdrawal of this garrison
6 force effectuated, if you know?

7 A Well, that particular garrison there in these
8 permanent barracks never was withdrawn. It was the
9 naval force that--

10 Q I take it then, Mr. Powell, you are not in
11 position to say whether or not this force was permitted
12 by an act of the League of Nations?

13 A I couldn't say. I think it is obvious that
14 the Shanghai truce agreement was filed with the League.
15 That is obvious.

16 MR. LEVIN: Mr. President, no further cross-
17 examination.

18 THE PRESIDENT: Colonel Morrow.

19 COLONEL MORROW: If the Court please, I desire
20 to present Mr. R. S. Davis, of the British Division of
21 the International Prosecution, for the purpose of
22 examining Mr. Powell as to the other phase your Honor
23 has allowed to be presented at this time, as I under-
24 stand.

25 THE PRESIDENT: Mr. Davis.

POWELL

CROSS

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23 has allowed to be presented at this time, as I under-
24 stand.

25 THE PRESIDENT: Mr. Davis.

POWELL

1 Are you going to open this phase, Mr. Davis?

2 MR. DAVIS: No, sir.

3 THE PRESIDENT: Is this just a single
4 atrocity? This is on the atrocities, isn't it?

5 MR. DAVIS: Yes, sir.

6 THE PRESIDENT: You are going to give evi-
7 dence of a single atrocity?

8 MR. DAVIS: Yes, sir.

9 THE PRESIDENT: There is no need to open.

10 MR. DAVIS: I merely desire to put some ques-
11 tions to this witness upon that phase of the case which
12 deals with the treatment of civilian internees.

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DIRECT EXAMINATION

1 BY MR. DAVIS:

2 Q Mr. Powell, what happened to you on the
3 20th of December, 1941?4 A Well, December 20, 1941 was a bad day for
5 Shanghai newspaper men. Practically all of them were
6 arrested on that day, including myself.7 Q What happened to you after you had been
8 arrested?9 A After searching my room, I was taken to the
10 gendarmerie headquarters located in the building known
11 as the Bridgehouse, which was within the Hong Kew area
12 and only about a block and a half, I should say, from
13 the central postoffice.

14 Q What was the Bridgehouse?

15 A The Bridgehouse had previously been an apart-
16 ment house. After I was taken there, supposedly for
17 questioning, I was immediately divested of all my pos-
18 sessions, and I was led by two guards to the basement
19 of this building, the basement or some sort of a semi-
20 basement area, fronting on two streets previously
21 occupied by shops. The fronts of these shops had
22 been boarded up, and the entire interior basement
23 area of this main part of the building had been con-
24 verted into -- I wouldn't dignify them by the name

POWELL

DIRECT

1 of cell; they were cages in which animals might be
2 confined. I -- we learned that this place had been
3 used since '37 by the Japanese gendarmerie for the
4 confinement of Chinese prisoners. On the 20th they
5 began putting foreigners. These cells or cages were
6 enclosed on three sides by heavy planking. There
7 were about, I think, fifteen cells in this particular
8 section of the Bridgehouse. These cells were about
9 twelve by eighteen feet in dimensions. They were
10 already crowded with Chinese when they began putting
11 foreigners. It was so dark in this basement that I
12 couldn't see anything except these long rows of cells,
13 but I could hear voices -- whispers. I was led down
14 quite a distance to cell No. 5, which had two heavy
15 locks on the door. The door was only about four feet
16 high with a slot in the middle of it. The door was
17 unlocked, and I was pushed into this dark enclosure.
18 I fell over someone lying next to the door. I finally
19 got up and a voice over in the corner, "Come over;
20 here is a little space." So I stumbled through and
21 got over, and I recognized the man, and I said, "How
22 do you happen to have this space here?" He said,
23 "This space is available because a Korean died here
24 of blood poisoning last night." He had been jabbed
25 through the leg with a bayonet. Sentries had jabbed

POWELL

DIRECT

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23 "This space is available because a Korean died here
24 of blood poisoning last night." He had been jabbed
25 through the leg with a bayonet. Sentries had jabbed

POWELL

DIRECT

him through the leg with a bayonet. Therefore, I got a place to sit down in the corner. During the day more foreigners were brought in until we had in this twelve by eighteen foot cell more than forty people.

6 Q What nationalities were these forty people?

7 I think we had fifteen non-Chinese in this
8 particular cell, and the same situation prevailed in
9 most of the others. We had, as I remember, around
10 three or four Americans; there were several Britons,
11 one Spanish woman; and a Russian woman was brought in.
12 who later lost her mind in this place. Three were --
13 we had three Chinese women. The British woman was
14 the wife of Mr. Hayim, the President of the Shang-
15 hai Stock Exchange. Most of the others were business
16 men, heads of motor car businesses, and various others.
17 The only way we could exist at all in these cells was
18 to sit in closely packed rows with our knees pulled
19 up against our chins and pressing against the backs
20 of the people who sat in front of us.

21 Q Were there any vermin in these cells and the
22 corridor of the cells?

23 A Yes. I don't think the cells had been
24 cleaned since 1937. We had every possible type of
25 vermin, with which everybody became infested, and

POWELL

DIRECT

1 at night rats would hop across the prisoners with
2 perfect freedom, because the guards paid no attention
3 to them.

4 Q Will you please tell the Tribunal about
5 the sanitary arrangement in the cells?

6 A The sanitary arrangement in this cell, as
7 in all the cells, consisted of a crude box, open,
8 in the corner, which everyone used, and which usually
9 ran over on the floor.

10 Q What about the women in the cell?

11 A I was going to say that in the morning the
12 men would stand with their backs to this arrangement
13 while the women used it. I should say that later, as
14 a result of very strong protest on the part of all
15 the prisoners, they finally did permit the women to go
16 upstairs to use toilet facilities on an upstairs floor,
17 but this situation prevailed for many days.

18 Q What were you given by way of food?

19 A Our food consisted of three small bowls of
20 rice a day only one of which we could eat. The one
21 served to us in the morning was fairly palatable; the
22 others were bowls that had been filled and apparently
23 had been permitted to stand for hours or days, and
24 in many cases we could not pry the rice out of the
25 bowls, it was so congealed or dried in the bowls.

POWELL

DIRECT

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23 had been permitted to stand for hours or days, and
24 in many cases we could not pry the rice out of the
25 bowls, it was so congealed or dried in the bowls.

POWELL

DIRECT

1 Q Were you given anything with the rice?

2 A Once a day we were given one bowl of tea --
3 they called it tea. It was some sort of a liquid
4 solution, and on very rare occasions we received a
5 small handful of brown sugar and a small portion of
6 salt.

7 Q Did you receive any tinned food sent in from
8 outside?

9 A At no time during the period that I was in
10 this prison did we receive a single Red Cross parcel,
11 thousands of which were supposedly being sent to this
12 part of the world to prisoners. They had a ruling
13 that tinned goods could not be brought into the cells,
14 but people outside who attempted to send us the
15 materials didn't know this; so that this stuff would
16 come to the prison and disappear.

17 At, I think, Christmas time, some friends
18 sent me a roast turkey. They wouldn't permit that to
19 be brought into the cell, because they said the
20 prisoners might kill each other with the bones.

21 Q What were you given by way of bedding?

22 A Of which?

23 Q Bedding.

24 A There was never a time in these crowded
25 cells when everyone could lie down at the same time,

POWELL

DIRECT

1 but along about nine o'clock at night they would
2 open the door and throw in a bundle of blankets --
3 cheap, thin, cotton blankets -- which always resulted
4 in a battle royal to see who would get them.

5 Q Were there sufficient blankets for each
6 prisoner to have one?

7 A No. There was never sufficient blankets.
8 We had to -- the only way we could exist in this
9 place was to lie as closely packed together as we
10 could. Everybody suffered particularly from cold
11 feet, because we were not permitted to have our shoes
12 in the cells. They were piled up outside in the
13 corridor.

14 Q Of what did the medical services consist?

15 A There was a dispensary in the building -- on
16 one of the upstairs floors of the building. About
17 every two days a Japanese nurse and a soldier assis-
18 tant would come through, but there was never any time
19 or opportunity for anything except the most serious
20 cases.

21 Q Were any of the Chinese prisoners suffering
22 from venereal disease?

23 A Once two Chinese prisoners were treated for
24 venereal ailments right in the open cell before all
25 of the prisoners including the women.

POWELL

DIRECT

1 Q As a result of the diet you were receiv-
2 ing, what happened to the prisoners?

3 A Everyone rapidly lost weight. In my case
4 I weighed about one hundred forty-five pounds when
5 I was taken to the prison, and when they carried me
6 out on a stretcher I weighed just seventy pounds.
7 I had lost half my weight, and that was --

8 Q What were most of the prisoners suffering
9 from?

10 A Of course malnutrition would cover most of
11 it. I think everyone quickly developed boils or
12 the most repulsive sores on their bodies where they
13 would lie on the floor, or their feet would become
14 swollen.

15 Q Did you develop some affliction to your feet?

16 A I developed gangrene infection in both of my
17 feet, which were soon swollen and turned black, and
18 I couldn't get my shoes on, and if I -- only on one
19 occasion did I have any treatment, and that was some
20 sort of red material resembling mercurochrome, which
21 had no effect, of course.

22 Q Did you ever actually see any of the other
23 prisoners struck by the guards?

24 A I was struck only once. A Russian prisoner
25 named Chesnokov, a Soviet citizen who came to Shanghai

POWELL

DIRECT

1 on a Russian boat, who was in the cell adjoining
2 mine, was severely beaten one day.

3 THE PRESIDENT: We will adjourn now until
4 half past one.

5 (Whereupon, at 1200, a recess
6 was taken until 1330, after which the
7 proceedings were resumed as follows:)

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POWELL

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Morse & Abram

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

JOHN B. POWELL, called as a witness on

behalf of the prosecution, resumed the stand

BY MR. DAVIS (Continued):

Q Mr. Powell, while you were in Bridgehouse did you see any Chinese prisoners beaten?

A Yes. It was almost a continuous performance and most of them were beaten in the corridors in front of our cells, or where we could hear them.

9 Whom were they beaten by?

A They were beaten by the Japanese guards who kept a large pile of cudgels, pieces of boards from packing cases, piled in the corridor for that purpose.

Q Did you ever, on any particular occasion, count the number of blows given to a prisoner?

A Yes. One night they removed a Chinese prisoner from one of the cells and took him right past our cell and just past the corner and they began

POWELL

DIRECT

1 beating this man over the head with one of these
2 clubs, and a man lying alongside said, "Let's count
3 the blows it will take to quiet that fellow." I
4 think it was 85 blows he received before he became
5 unconscious.

6 Q Do you know what happened to that prisoner
7 after that beating?

8 A I think he was left lying there for the rest
9 of the night.

10 Q How did the guards treat the Chinese lady
11 prisoners?

12 A You say the women?

13 Q Yes.

14 A There were three Chinese women in our cell.
15 They were the wives of university professors who had
16 slipped away from Shanghai at the time of the occupa-
17 tion. They were trying to find out from these women
18 the whereabouts of their husbands. They were taken
19 upstairs and quizzed and so badly slapped that they
20 were completely blind when they were brought back and
21 had to be led back to their cells, with their faces
22 swollen, lying on the floor and crying for hours.

23 Q Were you interrogated while you were at
24 Bridgehouse?

25 A I didn't understand that.

POWELL

DIRECT

1 Q Were you questioned?

2 A Oh, yes, continuously, throughout the whole
3 period that I was there. Sometimes at unearthly hours
4 they would get us out at two or three o'clock in the
5 morning, usually when the judge had been out to a
6 party.

7 Q Were the prisoners in your cell ever punished?

8 A Yes. There was a rule against talking or
9 reading anything, and on occasions when those rules
10 would be violated, especially when the guard's back
11 was turned, he would come back and if he couldn't
12 find out who did it he would punish the whole --
13 everybody in the cell by making them sit on their feet,
14 but he would describe it as Japanese fashion, on the
15 floor -- sit on your feet with your head bowed, and we
16 were told we had to bow toward Tokyo to show our
17 submission to the Emperor.

18 Q Did sitting in Japanese fashion have any
19 effect on your feet?

20 A Yes. It would stop the circulation in your
21 feet and legs, and if it extended over a long period --
22 we had case I think of six or eight hours, which a
23 great many of the people couldn't walk for a long time
24 after that -- you couldn't stand.

25 Q Were you allowed to wear your shoes while

POWELL

DIRECT

you were sitting in Japanese fashion?

A No. We never had the use of our shoes except on rare occasions when we were taken upstairs for questioning or out in the compound.

Q Of what material was the floor of the cell made?

A The floor of this cell was concrete. In another cell where I was incarcerated it was hard wood, it was wood.

Q What was the weather like?

A. We were placed in this jail on the 20th of December and that extended through the cold period in Shanghai. There was no heat in this building, no heat of any kind. There were some pipes that ran through the ceiling and ran upstairs, but which didn't heat our premises at all.

Q Were you ever told to write any letters?

A Yes. On several occasions the guard would come and ask me to write a letter stating that I was in good health. I would write such letters but always include in it some suggestion of my actual condition. On one occasion I re-wrote a letter six times until the guard became very threatening so I simply said, "I am all right," and let it go.

Q Did you know the Swiss Consul in Shanghai?

POWELL

DIRECT

1 A I knew him afterwards. After I had been
2 taken to a hospital he called on me and told me that,
3 as a result of frequent requests from home, from the
4 United States, he had called at the prison and asked
5 to see me. There was a report circulated that another
6 correspondent and myself had been shot and, as a result
7 of that, there was a demand on the part of my family
8 and also press clubs and so on of which I was a member
9 to find out what had happened. The Consul told me
10 that he had called repeatedly at the prison and
11 demanded to see me but was refused. But it was
12 apparently on these occasions that I was asked to
13 write letters stating that I was all right which were
14 given to him.

15 Q In what month did you leave Bridgehouse?

16 A It must have been the last of February or the
17 first of March. I was taken, along with several other
18 prisoners, to another prison at Kiang Wang. This was
19 a large, barn-like, structure which apparently had
20 been used for the incarceration of either Japanese or
21 Koreans. It was unheated but we had solitary confine-
22 ment at this place. We had more room; we had better
23 food, but most of us had passed the point where we
24 were interested in food. The prison at Kiang Wang was
25 under the army. Bridgehouse was purely a gendarmerie

POWELL

DIRECT

affair.

Q Before I leave Bridgehouse finally I want to ask you this: During the period of time you were there did you know of any deaths?

5 A There was one death in our cell. A Chinese
6 had the same ailment I had, gangrene in his feet, and
7 he, in addition, had pellagra and was in terrible pain.
8 His moans could be heard throughout the prison during
9 the night. In the morning the guard, before he went
10 off duty, came in and gave the man a hypodermic. He
11 was dead in thirty minutes.

12 Q For approximately how long were you at Kiang
13 Wang?

14 A I was at Kiang Wang about a month.

15 Q Where did you go to from Kiang Wang?

16 A My condition became so serious at Kiang Wang
17 that I don't think I **would** have lived more than a week
18 or ten days, so finally they came in and told me I
19 was to be taken to a hospital. I was taken to the
20 Shanghai General Hospital which by that time, of
21 course, was under military control but the staff con-
22 sisted of Franciscan nuns. I was permitted there to
23 have foreign medical attention. A surgeon operated
24 on both my feet and removed most of them. Well, this
25 period coincided with the movement that was on to

POWELL

DIRECT

1 exchange prisoners and it just happened that I was in
2 a group of newspaper correspondents who were to be
3 repatriated, that is, exchanged for Japanese corres-
4 pondents in the United States, and I was taken aboard
5 the Conte Verde.

6 Q In what month was that?

7 A That was the end of May.

8 Q 1942?

9 A '42, yes.

10 Q And from the Conte Verde were you transferred
11 to the S.S. Gripsholm and taken to New York?

12 A Taken to New York, yes.

13 Q In New York were you taken to the Columbia
14 Presbyterian Medical Center?

15 A Yes.

16 Q For how long did you remain there as a patient?

17 A I was a patient there over two years and a
18 half.

19 Q What treatment was given to you?

20 A I had repeated operations of -- doctors,
21 surgeons describe as plastic, the object being to cover
22 the bones with tissue. I don't want to emphasize this
23 that I was the main one. Practically half of the other
24 people on this boat were also taken to the hospital in
25

POWELL

DIRECT

1 New York for treatment for varying periods. Several
2 of them have since died. Several of the people I
3 knew, including the manager of the National City Bank,
4 dropped dead.

5 Q Did you have any blood transfusions?

6 A Yes, many of them. I had four or five in
7 Shanghai and many in New York.

8 MR. LEVIN: Mr. President, It seems to me
9 it is not helpful to the Tribunal to go into the
10 nature of the treatment Mr. Powell received at the
11 hospital, especially when he stated he had been treated,
12 and he has already testified as to what treatment he
13 received at the hands of the Japanese. I object to
14 that line of testimony.

15 THE PRESIDENT: I suppose the point is that,
16 despite the best treatment, certain results followed.
17 The objection is overruled.

18 Q How long did they keep you at the Columbia
19 Presbyterian Medical Center?

20 A I was released a year ago this last May.

21 Q That is in May, 1945 ?

22 A Yes.

23 Q Have you had any medical treatment since?

24 A Yes, almost continuously.

25 Q What is the present condition of your feet?

POWELL

DIRECT

1 A Well, partially as a result of too much walk-
2 ing which I have engaged in since I arrived and on my
3 way out, it will be necessary for me to go back to
4 the hospital here for some further treatment.

5 Q Before you went into Bridgehouse were you
6 suffering in any way with your feet?

7 A No.

8 MR. DAVIS: I have no further questions
9 to ask this witness.

10 THE PRESIDENT: Yes, Mr. Levin.

11 MR. LEVIN: Mr. President, there will be no
12 cross-examination on the part of the defense.

13 THE PRESIDENT: Well, that concludes this
14 witness' evidence for all purposes on all phases. The
15 witness may go.

16 (Whereupon, the witness was excused)

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1 THE PRESIDENT: Colonel Morrow.

2 COLONEL MORROW: If the Court please, I desire
3 to read from a document entitled Exhibit 59 which has
4 already been in evidence, if the Court please, and
5 which is entitled "Sino-Japanese Dispute; Report Adopted
6 on February 24, 1933, by the Assembly of the League
7 of Nations." And if the Court please, I only desire
8 to read excerpts from this document, and the other side
9 has been notified to that effect.

10 Might I ask if the Court desires me to wait
11 until the document is in the hands of the Court, or
12 shall I proceed now?

13 THE PRESIDENT: Wait until we get the copies,
14 Colonel, please.

15 COLONEL MORROW: Yes, sir.

16 THE PRESIDENT: The judges like to follow
17 you as you read.

18 Proceed, Colonel, please. Read on.

19 COLONEL MORROW. I am reading, if the Court
20 please, from page 7 of this document, and what is
21 entitled "Part 7. The Shanghai Hostilities -- Origin
22 of the Hostilities."

23 (Reading):

24 "Outside Manchuria from January 1932 onwards,
25 the situation became worse also at Shanghai.

1 "In connection with Shanghai, the League
2 received four reports on events from their beginning
3 up to March 5th from the Consular Commission which
4 was set up on the spot early in February 1932. Later
5 events are described in the report of the Commission
6 of Enquiry, which was constituted as already explain-
7 ed in January 1932 and arrived at Shanghai on March
8 14th.

9 "In this port, as in other parts of China,
10 the serious anti-Chinese riots which had occurred in
11 Korea, as described in the reports of the Commission
12 of Enquiry, led, from July 1931 onwards, to a boycott
13 of Japanese goods. The occupation of Manchuria by
14 Japanese troops intensified the boycott with, in cer-
15 tain cases, the active support of official organiza-
16 tions and of the Chinese Government. Japanese trade
17 suffered heavy losses. The tension between the nation-
18 als of the two countries became acute and serious
19 incidents occurred, as a result of which the Japanese
20 residents in Shanghai requested the despatch of troops
21 and warships to put down the anti-Japanese movement.
22 The Japanese Consul-General then presented five de-
23 mands to the Chinese Mayor of Greater Shanghai.

24 "The Mayor stated on January 21st that he
25 had difficulty in complying with two of these demands

1 (adequate control of the anti-Japanese movement; im-
2 mediate dissolution of all anti-Japanese organiza-
3 tions engaged in fostering hostile feelings and anti-
4 Japanese riots and agitation).

5 "On the same day, the Admiral in command
6 of the Japanese naval forces publicly announced that,
7 if the reply of the Chinese Mayor were unsatisfactory,
8 he was determined to take such measures as might be
9 necessary to protect Japanese rights and interests.

10 On January 24th, Japanese naval reinforcements arrived
11 off Shanghai. Rumours were current that the Chinese
12 troops in the Chinese quarter of Chapei were also
13 being reinforced. On January 27th, the Japanese Con-
14 sul-General asked for a satisfactory reply to his de-
15 mands by 6 o'clock on the following morning. The
16 Mayor, who had informed the representatives of the
17 Powers of his intention to make all possible conces-
18 sions to avoid a clash, succeeded in securing the
19 closing down of the Anti-Japanese Boycott Association,
20 and the Chinese police sealed various offices on the
21 night of January 27th-28th. On the morning of January
22 28th, the Japanese Admiral notified the other foreign
23 commanders of his intention to act on the following
24 morning if the Chinese had not sent a satisfactory
25 reply. The Municipal Council of the International

1 Settlement met and decided that a state of emergency
2 should be declared as from 4 p.m. on the same day.
3 At 4 p.m. the Japanese Consul-General informed the
4 consular body that a Chinese reply accepting all the
5 Japanese demands had been received, that this reply
6 was entirely satisfactory and that, for the moment,
7 no action would be taken.

8 "Meanwhile, the Defence Committee of the
9 International Settlement carrying out the plans
10 called for by a state of emergency assigned to the
11 different foreign forces the sectors they would have
12 to defend. The Japanese sector, as fixed by the
13 Defence Committee, included not only a part of the
14 Settlement but a salient extending beyond it, bounded
15 on the west by the Shanghai-Woosung Railway. The
16 Japanese naval headquarters are situated near the
17 northern extremity of this salient and in normal
18 times there are posts of Japanese marines on two
19 roads -- North Szechuen Road and Dixwell Road --
20 which belong to the Shanghai Municipal Council. At
21 11 p.m., the Japanese Admiral, referring to the
22 state of emergency, announced that the Imperial
23 Navy, anxious as to the situation in Chapei, where
24 numerous Japanese nationals resided, had decided
25 to send troops to this sector and hoped that the

1 Chinese forces stationed at Chapei would be speedily
2 withdrawn to the west of the railway.

3 "One hour later Japanese marines and armed
4 civilians proceeded towards the railway; the last
5 detachment attempted to reach the station by the
6 Honan Road gate leading out of the Settlement and
7 the defence sectors. It was stopped by the Shanghai
8 Volunteer Corps, who were guarding this sector and
9 who had received strict orders based on the princi-
10 ple that the duty of defence forces was to defend
11 and not to attack.

12 "The Japanese troops sent to the Chapei
13 sector in conformity with the plan of defence came
14 into contact with the Chinese troops which, as the
15 first report of the Consular Commission notes, would
16 not have had time to withdraw even had they wished
17 to do so."

18 Then I desire to read Section 8.

19 "8. The Shanghai Hostilities. -- Discus-
20 sions of the Council: -- Reference to Article 10 of
21 the Covenant. -- First Discussions of the Assembly
22 under Article 15. -- Termination of the Shanghai
23 Hostilities.

24 "This was the beginning of the battle of
25 Shanghai, which the Council, then in session at Geneva,

1 and the Powers having special interests in Shanghai
2 repeatedly endeavoured to stop. It was immediately
3 after the serious incidents described above that China,
4 on January 29th, asked that the dispute should be
5 dealt with under Articles 10 and 15.

6 "On February 16th, the Members of the Coun-
7 cil other than China and Japan addressed to the Ja-
8 panese Government an urgent appeal calling attention
9 to Article 10 of the Covenant from which it appeared
10 to them to follow that 'no infringement of the ter-
11 ritorial integrity and no change in the political
12 independence of any Member of the League brought
13 about in disregard of that article ought to be recog-
14 nised as valid and effectual by Members of the League.'

15 "On February 19th, the Council, at the
16 request of China, referred the dispute to the Assem-
17 bly. The Assembly was convened to meet on March 3rd.

18 "The Council, before the Assembly met, made
19 a last effort to stop the fighting by proposing on
20 February 29th that a roundtable conference should be
21 set up in Shanghai, subject to the making of local
22 arrangements for a cessation of hostilities.

23 "The proposal of the Council was not car-
24 ried into effect. As fighting continued, the Assem-
25 bly, after hearing the representatives of the two

1 parties on March 3rd, adopted the following resolution
2 on March 4th:

3 'The Assembly,
4 'Recalling the suggestions made by the
5 Council on February 29th and without prejudice to the
6 other measures therein envisaged:

7 '(1) Calls upon the Governments of China
8 and Japan to take immediately the necessary measures
9 to ensure that the orders which, as it has been inform-
10 ed, have been issued by the military commanders on
11 both sides for the cessation of hostilities, shall be
12 made effective;

13 '(2) Requests the other Powers which have
14 special interests in the Shanghai Settlements to in-
15 form the Assembly of the manner in which the invita-
16 tion set out in the previous paragraph is executed;

17 '(3) Recommends that negotiations be enter-
18 ed into by the Chinese and Japanese representatives,
19 with the assistance of the military, naval and civilian
20 authorities of the Powers mentioned above for the con-
21 clusion of arrangements which shall render definite
22 the cessation of hostilities and regulate the with-
23 drawal of the Japanese forces. The Assembly will be
24 glad to be kept informed by the Powers mentioned
25 above of the development of these negotiations.'

1 "On March 5th, the Government of the United
2 States of America intimated that the American military
3 authorities at Shanghai had been instructed to co-
4 operate.

5 "The proposed negotiations began at Shanghai
6 on March 14th. On two occasions, the Committee of
7 Nineteen set up by the Assembly intervened, at China's
8 request, to smooth away difficulties. An armistice
9 was finally signed at Shanghai on May 5th and the with-
10 withdrawal of the Japanese troops began on the 6th. By
11 May 31st, the divisions sent from Japan to Shanghai
12 had been reembarked, one of those divisions -- the
13 14th -- being sent to Manchuria. On July 1st, the
14 Assembly was informed that Japanese naval landing
15 troops, with very reduced effectives, were still tem-
16 porarily stationed, in accordance with the agreement
17 of May 5th, at a small number of posts adjacent to the
18 Settlement and to the extra-Settlement roads. These
19 detachments were afterwards withdrawn.

20 "The Chinese consider that the Japanese
21 intervention at Shanghai cost them 24,000 soldiers
22 and civilians killed, wounded or missing, and they
23 estimate their material losses at about 1,500 million
24 Mexican dollars."

THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, on page 7 at the commencement of the excerpts read by Colonel Morrow there is a reference to four reports which were submitted to the League. I call on the prosecution and ask them if they have those reports, and to make them available to the defense if they have them.

THE PRESIDENT: Apparently the League acted on those, and we have the League's report. You do not seriously challenge the League's findings, I suppose?

MR. LOGAN: It is not a question of challenging the League's findings. We would like to examine those reports to see what they contain.

THE PRESIDENT: Well, if the prosecution have them, they might make them available to the General Secretary in the usual way. But otherwise I suggest the Tribunal would not feel inclined to order that the prosecution obtain them.

MR. LOGAN: All right.

THE PRESIDENT: Have you those reports, Colonel Morrow?

COLONEL MORROW: I haven't got them. They are not immediately available, if your Honor please, in the courtroom. No doubt I may procure them.

THE PRESIDENT: Yes.

1 You have further excerpts to read, have you?

2 COLONEL MORROW: Yes, sir. If the Court
3 please, I would like to read from Exhibit 57, which is
4 entitled "Manchuria. Report of the Commission of
5 Enquiry Appointed by the League of Nations." However,
6 I might state that the excerpt I desire to read from
7 this is short and refers to this Shanghai Affair.

8 THE PRESIDENT: You had better proceed,
9 Colonel.

10 COLONEL MORROW: If the Court please, I desire
11 to read from this document which is entitled Exhibit 57,
12 and that part of it which appears at the bottom of
13 page 86, as follows. The summary on the left reads,
14 "Effect on the Manchurian situation of the Chinese
15 resistance at Shanghai." And now reading the text:

16 "The Shanghai affair undoubtedly exercised
17 considerable influence upon the situation in Manchuria.
18 The ease with which the Japanese had been able to
19 occupy the greater part of Manchuria, and the absence
20 of any resistance by the Chinese troops, not only led
21 to a belief in Japanese naval and military circles that
22 the fighting quality of the Chinese Army was negligible,
23 but also caused profound depression throughout China.
24 The stout resistance put up from the first by the
25 Chinese 19th Route Army, with the assistance later of

1 the 87th and 88th Guard Divisions, was hailed through-
2 out China with the greatest enthusiasm, and the fact
3 that the original 3,000 marines had to be supplanted
4 by three divisions and a mixed brigade of the Japanese
5 Army before the Chinese forces were finally dislodged
6 and driven back after six weeks of fighting created a
7 profound impression upon the Chinese morale. The feel-
8 ing prevailed that China must be saved by her own
9 efforts. The Sino-Japanese conflict was brought home
10 to the people throughout China. Everywhere opinion
11 hardened and the spirit of resistance increased.
12 Former pessimism gave place to equally exaggerated
13 optimism. In Manchuria, the news from Shanghai put
14 fresh heart into the scattered forces still opposing
15 the Japanese troops. It encouraged the subsequent
16 resistance of General Ma Chan-shan and stimulated the
17 patriotism of the Chinese all over the world. The
18 resistance of the Volunteer Armies increased. Expedi-
19 tions to suppress them met with indifferent success,
20 and in some areas the Japanese stood on the defensive,
21 taking up positions along certain railway lines, which
22 were frequently attacked.

23 "The hostilities at Shanghai were followed by
24 several other incidents, one of which was the short
25 bombardment of Nanking. This incident created much

1 excitement and alarm, even outside China. It happened
2 on the late evening of February 1st, but did not last
3 for more than an hour. The incident was probably
4 caused by a misunderstanding, but had the important
5 consequence of a temporary removal of the Chinese
6 Government from Nanking to Loyang."

7 That completes, if the Court please, the
8 excerpt from that document.

9 And may it please the Court, I also have here
10 another basic document which is entitled Exhibit 58,
11 and this refers to the incident, so-called, at the
12 so-called Marco Polo Bridge. This is the report of
13 the League of Nations dated 6 October 1937, as set
14 forth in volume entitled "Japan, 1931-1941."

15 If it please the Court, I would like to read
16 from this document certain excerpts concerning this
17 so-called Marco Polo Bridge Incident. Does the Court
18 desire me to wait until this document is made avail-
19 able to the Court?

20 THE PRESIDENT: No.

21 COLONEL MORROW: Do I understand I may go
22 ahead, sir?

23 THE PRESIDENT: Well, I should think you
24 would.

25 COLONEL MORROW: (Reading) "At the beginning

1 of July 1937, there were about 7,000 Japanese soldiers
2 in Northern China. These troops were kept there on the
3 basis of the Protocol of September 7th, 1901 (and its
4 annexes), concluded between China and the Powers having
5 legations at Peking. Under these Agreements, China
6 recognised the right of each Power to maintain a per-
7 manent guard in the legations quarter at Peking and to
8 occupy twelve specified points for the maintenance of
9 open communication between the capital and the sea.
10 Under the terms of a supplementary Agreement of
11 July 15th-18th, 1902, the foreign troops stationed at
12 these points had 'the right of carrying on field exer-
13 cises and rifle practice, etc. . . . without informing
14 the Chinese authorities, except in the case of feux de
15 guerre.'

16 "The Powers other than Japan which at present
17 maintain contingents at Peiping (Peking), and certain
18 of the points specified in the Protocol of Septem-
19 ber 7th, 1901, only have very small detachments there.
20 The number of British troops stationed in North China
21 at the beginning of July this year was 1,007; that
22 figure includes the 252 members of the Legation guard.
23 Similarly, the strength of the French effectives
24 stationed in Hopei varies between 1,700 and 1,900, the
25 bulk of whom are at Tientsin. The rest are divided

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23 Similarly, the strength of the French effectives
24 stationed in Hopei varies between 1,700 and 1,900, the
25 bulk of whom are at Tientsin. The rest are divided

1 among the garrisons of Shan-hai-Kuan, Chin-wang tao,
2 Tongku and Peking, the detachment in the latter town
3 forming the Embassy guard. At present, the total
4 strength of those troops is 1,600 men and 60 officers;
5 the Embassy guard consists of 120 men.

6 "In addition to the events and developments
7 in Manchuria and Jehol, Japan's political activity in
8 North China, the presence of Japanese effectives
9 greatly in excess of the contingents of the other Powers,
10 and the frequency of their exercises and manoeuvres
11 disquieted the Chinese. It was in an atmosphere of
12 tension that on July 7th last an incident occurred
13 which was not essentially different from those which
14 had preceded it, but which was the occasion from which
15 flow the Japanese army's present operations in Northern
16 China.

17 "This initial incident occurred at Loukouchiao,
18 thirteen kilometres to the south-west of Peiping
19 (Peking), between the Chinese garrison and the Japanese
20 troops carrying out night manoeuvres in that district.

21 "The Chinese and Japanese versions of the
22 incident differ."

23 I am now proceeding from that page to page 386,
24 the third and fourth paragraphs.

25 "Leaving on one side the obvious discrepancies

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2 Tongku and Peking, the detachment in the latter town
3 forming the Embassy guard. At present, the total
4 strength of those troops is 1,600 men and 60 officers;
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1 of its troops into Hopei.

2 "At the end of July hostilities began in
3 North China, at a time when local negotiations were
4 being carried on. The Japanese occupied Peiping and
5 Tientsin and seized the railway lines running south
6 which connect these two cities with Central China. A
7 new Government which favoured the Japanese influence was
8 set up in Hopei.

9 "The Japanese army then progressed towards the
10 west along the railway which connects Peiping and
11 Sui-yuen through Kalgan and Ta-tung. It also progressed
12 along the frontier between Hopei and Chahar Province;
13 the taking of the Nankow Pass, some 80 kilometres
14 north-west of Peiping, facilitated the penetration of
15 the Japanese Manchurian divisions into Inner Mongolia.

16 "The operations of the Japanese troops in
17 North China provoked a lively reaction in China. By
18 the declarations of Japanese statesmen to the effect
19 that China must give way, the emergency financial
20 measures taken at Tokio, and the departure of the
21 Japanese nationals resident in China, the Government
22 and the people of China were led to the conclusion
23 that Japan was determined to break their resistance by
24 force of arms.

25 "They were confirmed in this conviction, when

1 at the end of the second week of August, the Shanghai
2 region became a second theatre of operations, despite
3 the efforts that were made to keep hostilities at a dis-
4 tance from a city in which the interests of China and
5 those of other nations are so closely interlocked.

6 "It will be remembered that, in 1932, the hos-
7 tilities in the Shanghai region had been brought to an
8 end by the conclusion of the Agreement of May 5th, of
9 which Article II stipulated that the Chinese troops
10 would remain in the positions they occupied at that
11 date pending later arrangements upon the re-establish-
12 ment of normal conditions in the area dealt with by
13 this Agreement. The Chinese delegation to the Shanghai
14 Conference, in accepting the Agreement, declared in
15 particular that it was understood that 'nothing in this
16 Agreement implies any permanent restriction on the
17 movements of Chinese troops in Chinese territory.'"

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(Colonel Morrow reading)

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1 "The Japanese Minister for Foreign Affairs,
2 in a speech which he made in the Imperial Diet on
3 September 5th, 1937, described as follows the initial
4 incident at Shanghai on August 9th and the difficul-
5 ties which occurred on the following days:

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6 "On August 9th, at Shanghai, Sub-Lieutenant
7 Oyama and Seaman Saito, of the landing party, were
8 murdered at the hands of the Chinese Peace Pres-
9 ervation Corps.

10 "Even then, Japan, adhering to a peaceful
11 cause, sought to settle the affair through the with-
12 drawal of the Peace Preservation Corps and the removal
13 of all military works that had been erected in viola-
14 tion of the 1932 Truce Agreement. China refused to
15 comply with our demands under one pretext or another,
16 and proceeded, instead, to increase her troops and
17 multiply her military works in the prohibited zone,
18 and finally launched an unwarranted attack upon the
19 Japanese.

20 "Thereupon, as a matter of duty, our
21 Government despatched small naval reinforcements
22 to Shanghai as an emergency measure to ensure the
23 protection of our nationals in that city."

24 "After describing the efforts of the Powers
25 to exclude Shanghai from the zone of hostilities,

(Colonel Morrow reading):

1 M. Hirota said that 'in the afternoon of August
2 13th, the Chinese armies that had been pouring
3 into the Shanghai area took the offensive.'

4 "With this version may be contrasted
5 that contained in the Chinese Government's state-
6 ment communicated to the League of Nations on Aug-
7 ust 30th.

8 "The incident of August 9th is described
9 as follows:

10 "One Japanese naval officer, one Japanese
11 seaman, and a member of the Chinese Peace Preser-
12 vation Corps were killed in a clash arising from
13 the Japanese naval men's attempt to approach the
14 Chinese military aerodrome near Shanghai regardless
15 of Chinese warning.'

16 "Recalling, moreover, the above-mentioned
17 declaration by its representative at the time of
18 the conclusion of the Agreement of May 5th, 1932,
19 the Chinese Delegation, while mentioning that its
20 Government had repeatedly ordered the local auth-
21 orities at Shanghai to take special precautions
22 against the occurrence of any untoward incident,
23 maintains that movements of Chinese troops in
24 Chinese territory cannot be considered as a breach
25 of the Agreement.

(Colonel Morrow reading):

1 "The opening of hostilities at Shanghai is
2 described by the Chinese note in these words:

3 "Within less than forty-eight hours,
4 Japan concentrated about thirty warships in Shanghai,
5 and had her armed forces there increased by several
6 thousand. At the same time, however, demands
7 calculated to remove or undermine Chinese defence
8 were made on the Chinese authorities. The expected
9 attack opened August 13th, four days after the
10 incident."

11 "Since then furious fighting has been going
12 on round Shanghai. At the beginning of July, the
13 strength of the Japanese troops stationed in the
14 International Settlement and on the extra-Settle-
15 ment roads amounted to 4,000 men. At the end of
16 September, under the protection of 38 Japanese
17 warships assembled at Woosung, reinforcements had
18 been landed which the Chinese authorities estimated
19 at over 100,000 men.

20 "During the last few weeks, Japan has
21 developed her military action, not only in the
22 Yangtse valley, where, inter alia, Japanese
23 aircraft have several times bombed the capital
24 of China, but along the Chinese coast and in the
25 interior, where numerous aerial bombardments have

(Colonel Morrow reading):

1 been carried out.

2 " At present, apart from the operations of
3 the Japanese armies in North and Central China, and
4 the raids carried out by Japanese aircraft on the
5 ports and the cities of the interior, the Japanese
6 fleet, while continuing to co-operate with the army,
7 more especially before Shanghai, is patrolling the
8 coast to prevent supplies from being brought to
9 China by Chinese ships, a number of which have been
10 sunk.

11 " Since July 7th, faced by a growing re-
12 sistance, Japan has not ceased to intensify her
13 action, employing larger and larger forces and
14 more and more powerful armaments. According to
15 Chinese estimates in addition to the 100,000 men
16 in the Shanghai region, the strength of the Jap-
17 anese troops operating in China exceeds 250,000
18 men.

19 " As regards the activity of the Japanese
20 aircraft, the Advisory Committee, in its resolution
21 of September 27th, condemned the aerial bombardments
22 of open towns in China. The Assembly has endorsed
23 this resolution.

24 " For the purpose of examining the facts
25 of the present situation, it does not seem necessary

(Colonel Morrow reading):

1 to discuss the treaties regulating commercial
2 matters and such matters as the extra-territorial
3 status of Japanese nationals in China. There are
4 only three main treaties which are relevant to our
5 present purpose - namely, the Final Protocol of
6 September 7th, 1901, the Nine-Power Treaty signed
7 at Washington in 1922, and the Fact of Paris of
8 1928, to which may be added the Hague Convention
9 No. I of October 18th, 1907, which has a some-
10 what different character. There are, in addition
11 to these, an indeterminate number of bilateral
12 agreements which have been negotiated at various
13 times locally between Chinese and Japanese authorities.
14 The exact terms, the scope, the interpretation of
15 the validity of these agreements are matters of
16 dispute. They cannot affect or override the obli-
17 gations undertaken by either of the parties in the
18 three multilateral engagements referred to above.
19

20 "Under the Protocol of September 7th, 1901,
21 and annexed instruments, Japan, together with certain
22 other Powers, is entitled to station troops at
23 certain points in the province of Hopei, along the
24 Peiping-Mukden Railway, for the purpose of keeping
25 open communications between the legations in Peiping
and the sea. These troops 'will have the right of

(Colonel Morrow reading):

1 carrying on field exercises and rifle practice, etc.,
2 without informing the Chinese authorities, except in
3 the case of feux de guerre'.

4 "Under the Nine-Power Treaty of 1922 regard-
5 ing the principles and policies to be followed in
6 matters concerning China, the contracting Powers,
7 other than China, agreed, inter alia, to respect
8 the sovereignty, the independence and the territorial
9 and administrative integrity of China; to provide the
10 fullest and most unembarrassed opportunity to China
11 to develop and maintain for herself an effective and
12 stable Government. The contracting Powers (including
13 China) further agreed that whenever a situation arose
14 which, in the opinion of any one of them, involved the
15 application of the stipulations of the Treaty and ren-
16 dered desirable discussion of such application, there
17 should be full and frank communication between the
18 contracting Powers concerned.

19 "Under the Pact of Paris of 1928, the parties
20 solemnly declared in the names of their respective
21 peoples that they condemned recourse to war for the
22 solution of international controversies and renounced
23 it as an instrument of national policy in their re-
24 lations with one another. They further agreed that
25 the settlement or solution of all disputes or con-

(Colonel Morrow reading):

1 flicts, of whatever nature or of whatever origin they
2 might be, which might arise among them, should never
3 be sought except by pacific means.

4 "Prima facie, the events described in the
5 first part of this report constitute a breach by
6 Japan of her obligations towards China and towards
7 other States under these treaties. The conduct of
8 hostilities by Japanese forces under the circumstances
9 described by land, water and air throughout China
10 is prima facie inconsistent with an obligation to
11 respect the sovereignty, the independence and the
12 territorial integrity of China, and also with the
13 obligation never to seek the solution of a dispute
14 with China, of whatever origin or character, except
15 by pacific means. It would seem that only if it
16 could be shown to be a measure necessary for self-
17 defense (including the defence of the Japanese forces
18 and nationals lawfully upon Chinese territory)
19 could the position of the Japanese forces in China
20 possibly be reconciled with Japan's treaty obli-
21 gations."

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(Colonel Morrow reading):

1 I will also read on page 393, part IV, en-
2 titled "Conclusions":

3 "It is clear that the two countries take
4 very different views as to the underlying grounds of
5 the dispute and as to the incident which led to the
6 first outbreak of hostilities.

7 "It cannot, however, be challenged that power-
8 ful Japanese armies have invaded Chinese territory and
9 are in military control of large areas, including
10 Peiping itself; that the Japanese Government has taken
11 naval measures to close the coast of China to Chinese
12 shipping; and that Japanese aircraft are carrying out
13 bombardments over widely separated regions of the
14 country.

15 "After examination of the facts laid before
16 it, the Committee is bound to take the view that the
17 military operations carried on by Japan against China
18 by land, sea and air are out of all proportion to the
19 incident that occasioned the conflict; that such action
20 cannot possibly facilitate or promote the friendly co-
21 operation between the two nations that Japanese states-
22 men have affirmed to be the aim of their policy; that
23 it can be justified neither on the basis of existing
24 legal instruments nor on that of the right of self-
25 defense, and that it is in contravention of Japan's

(Colonel Morrow reading):

1 obligations under the Nine-Power Treaty of February 6th,
2 1922, and under the Pact of Paris of August 27th, 1928.

3 "1. In the report which the Sub-Committee
4 has already submitted to the Advisory Committee, the
5 facts of the present situation in China and the treaty
6 obligations of Japan have been examined. That report
7 shows that the action taken by Japan is a breach of
8 Japan's treaty obligations and cannot be justified.

9 "2. The establishment of the understandings
10 of international law as the actual rule of conduct
11 among Governments and the maintenance of respect of
12 treaty obligations in the dealings of organised peoples
13 one with another are matters of vital interest to all
14 nations."

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1 If the Court please, I have for presenta-
2 tion document 1726 which is an excerpt from the so-
3 called Boxer Protocol and is the Section IX of that
4 protocol which I thought might be informative to this
5 Court.

6 THE PRESIDENT: Is it an exhibit?

7 COLONEL MORROW: Yes, sir.

8 THE PRESIDENT: What number?

9 COLONEL MORROW: I beg your pardon. It is
10 not an exhibit. It is a document I want to submit
11 for an exhibit, sir.

12 THE PRESIDENT: Well, you have tendered it,
13 have you?

14 COLONEL MORROW: Yes, sir.

15 THE PRESIDENT: Admitted subject to the
16 usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 1726 will receive exhibit No. 247.

19 (Whereupon, prosecution's exhibit
20 No. 247 was received in evidence.)

21 COLONEL MORROW: Shall I proceed?

22 THE PRESIDENT: Yes.

23 COLONEL MORROW: (Reading) "Excerpts from --"

24 MR. LEVIN: Mr. President, we have to call
25 attention to the fact that no application has been

1 made to offer this excerpt of the document in evi-
2 dence. I assume, possibly, that the basis for their
3 offer is that the protocol itself -- that the Court
4 would take judicial notice of the protocol, but we
5 have had no application to modify the rule and any
6 suggestion as to the offer of this excerpt; and we
7 of the defense find that we have not made any study
8 of the excerpt.

9 THE PRESIDENT: The document has only six
10 lines.

11 COLONEL MORROW: If the Court please, I
12 was under a misapprehension. I understand that this
13 was incorporated by Mr. Parkinson in a list of docu-
14 ments which we asked the Court to allow to be intro-
15 duced, but the written order by the Court authorizing
16 that has not yet been signed by the Court.

17 MR. LEVIN: In view of the shortness of the
18 document, your Honor, we will waive the objection.
19 Some notice of it was had, evidently.

20 THE PRESIDENT: That is a sensible attitude,
21 if I might say so.

22 COLONEL MORROW: (Reading)

23 "Excerpt from TREATIES, CONVENTIONS, INTER-
24 NATIONAL ACTS, PROTOCOLS AND AGREEMENTS BETWEEN U. S.
25 AND OTHER POWERS 1776 - 1909.

"Article IX

7 "The Chinese Government has conceded the
8 right to the Powers in the protocol annexed to the
9 letter of the 16th of January, 1901, to occupy certain
10 points, to be determined by an agreement between them,
11 for the maintenance of open communication between
12 the capital and the sea. The points occupied by
13 the powers are:

"Huang-tsun, Lang-fang, Yang-tsun, Tientsin,
Chun-liang Ch'eng, Teng-ku, Lu-tai, Tang-shan, Lan-
chou, Chang-li, Ch'in-wang tao, Shan-hai kuan."

17 THE PRESIDENT: This is a convenient break.
18 We will recess now for fifteen minutes.

19 (Whereupon, at 1445, a recess was
20 taken until 1500, after which the proceed-
21 ings were resumed as follows:)

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WANG

DIRECT

W 1 MARSHAL OF THE COURT: The International
o 2 Military Tribunal for the Far East is now resumed.
f 3

& 4 THE PRESIDENT: Colonel Morrow.
S 5

r 6 COLONEL MORROW: If the Court please, I
a 7 desire to call as a witness Wang Len-ch'ai.
t 8

W A N G L E N - C H ' A I , called as a witness
8 on behalf of the prosecution, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY COLONEL MORROW:

12 Q Please give your name and your residence?

13 A Wang Len-ch'ai. My residence: No. 26
14 Ling-Sun-Lu, Chungking, China.

15 Q I will hand you a writing in the Japanese
16 language and ask if you can identify it, and to state
17 what it is.

18 THE PRESIDENT: You mean Chinese.

19 COLONEL MORROW: Yes.

20 A Yes. This is a document signed by myself
21 and written by myself.

22 Q Can this document be considered a part of
23 your sworn testimony here and now?

24 A Yes.

25 COLONEL MORROW: If the Court please, I

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1 desire to present a certificate indicating the trans-
2 lation of this into the Japanese and English lan-
3 guage, and also --

4 THE PRESIDENT: Admitted.

5 COLONEL MORROW: -- and also to place this
6 document in evidence.

7 THE PRESIDENT: Admitted.

8 CLERK OF THE COURT: Prosecution document
9 No. 1790 will receive exhibit No. 248.

10 (Whereupon, prosecution's exhibit
11 No. 248 was received in evidence.)

12 COLONEL MORROW: May I proceed, if your
13 Honor please?

14 THE PRESIDENT: You may.

15 COLONEL MORROW: (Reading)

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"DOCUMENT 1790

1 FACTUAL ACCOUNTS OF LUKOUCHIAO CASE
2

3 Recorded by Wang Len-ch'ai.

4 "Relative to the inception of Japanese in-
5 vasion of North China and to the history of 'Lukou-
6 chiao' case, ex-Mayor of Peiping, Mr. Ching Teh-tsun,
7 has already made out a factual report. Mr. Ching
8 was then one of the high-ranking officials in North
9 China. At the inception of the war, Chairman Sung
10 Cheh-yuen of the Political Council for the Provinces
11 of Hopei and Chahar was on leave at his native place.
12 Mr. Ching was made to act on his behalf on all mat-
13 ters, diplomatic as well as military. He personally
14 directed and conducted all negotiations and military
15 defense. Therefore, what he has recorded is factual
16 and truthful.. I was then the Executive Supervisor
17 for the 3rd District of Hopei Province and concur-
18 rently the Magistrate of Yan-ping Hsien. Lukouchiao,
19 where the Japanese started the initial attack, is
20 within the district of my jurisdiction, and I had
21 personally participated in all of the negotiations
22 and conducted military defense. I shall now proceed
23 to relate the situation then existing:

24 "I assumed the duties of the above-mentioned
25

WANG

DIRECT

1 offices in the fall of 1936, when the Japanese were
2 intensifying their measures of invasion. Consequently,
3 there were numerous negotiations taking place, and the
4 situation was considerably critical. The city of Wan-
5 ping is the stronghold in the outskirts of Peiping
6 and is the center of communications in North China.
7 The jurisdiction of Wan-ping Hsien extends to Lukou-
8 chiao on the Peiping-Hankow Line, Fengtai on the Pei-
9 ning Line and Tsingho on the Peiping-Suiyan Line.
10 With the occupation of Fengtai by the Japanese troops,
11 they were in the position to control the communica-
12 tions of Peiping-Hankow Line and cut off North China
13 from Central China, thereby making North China into
14 what they called the 'Special Sphere of Influence',
15 which they had been yearning for ever since a long
16 time ago. The Japanese by repeating what they had
17 successfully tried out in the North-eastern Three
18 Provinces, hoped to achieve the occupation of North
19 China without sacrificing one single soldier and one
20 single bullet. With this end in view, they started
21 with 'peaceful invasion'. After they had occupied
22 Fengtai and stationed troops there, they tried to
23 take Lukouchiao as well. Had this been successful,
24 Peiping would be under their control with a single
25 pincer-movement, and the 29th Army would also be kept

WANG

DIRECT

under watch. Earlier, they had, with the cooperation
1 of Chen Chueh-sun, then the Director of the Peiping-
2 Liaoning Line, and in the name of the Railway Admin-
3 istration, effected a survey of some six thousand mow
4 of the land lying between Fengtai and Lukouchiao.
5 With the surveying done, they approached our authori-
6 ties with the request that this land be either rented
7 or sold to the Japanese army for the purpose of build-
8 ing barracks and airfield. Several approaches were
9 made in Peiping, but were categorically refused by us.
10 Unsuccessful in these attempts, they turned to the
11 inhabitants of the place, over whom they tried to buy
12 with money. They made the inhabitants there to sub-
13 mit a petition to the Magistrate Government, alleging
14 that they would voluntarily sell the land to the Ja-
15 panese, so as to get some money to maintain their
16 living on one hand and to avoid the forceful oppres-
17 sion of the Japanese on the other hand. Knowing that
18 this being a trick played by the Japanese after they
19 could not achieve what they wanted in their dealings
20 with the Chinese authorities through their Special
21 Service Corps in Peiping and their headquarters in
22 Tientsin, and realizing that it was my duty not to
23 give up one single inch of land to the invader, I
24 summoned all the inhabitants there and exhorted them.
25

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DIRECT

1 Overwhelmed with patriotism, they swore not to sell
2 the land, neither to move from the place without
3 having shed blood. The sworn statement was finger-
4 printed, in order to show their determination. Sub-
5 sequently, when the Japanese approached with the
6 saying that the inhabitants were willing to sell the
7 land, we showed them the sworn statement. Aware of
8 the impossibility of "peaceful invasion", they could
9 not but resort to military aggression. Then there
10 followed the war at Lukouchiao on 7 July 1937.

11 "The war of Lukouchiao was started as a
12 consequence of the Japanese military maneuvers which
13 they performed upon Chinese soil freely without any
14 treaty rights and without notifying the local Chinese
15 authorities beforehand. From the time of my assump-
16 tion of office up to the outbreak of the Lukouchiao
17 Incident, the Japanese staged maneuvers no less than
18 six times. With a view to maintaining the peaceful
19 relations with Japan we did not seek to stop them by
20 force. But the Japanese paid no attention to our pro-
21 tests against their repeated maneuvering. There was
22 once when after the maneuver, I protested and called
23 their attention to the fact that such might cause mis-
24 understanding among the inhabitants, the Japanese re-
25 plied that since the scale of maneuver was small and

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DIRECT

1 the guns were not loaded, they would not cause any
2 disturbance, but promised that they would notify us
3 if they decided to maneuver with loaded guns and
4 rifles. They did, afterwards, maneuver with actual
5 firing, but, instead of notifying the Chinese authori-
6 ties, sent their interpreters to inform the inhabi-
7 tants. These showed that the plan of their invasion
8 must have been meticulously studied and that the
9 tempo was being gradually intensified till a certain
10 time when it was ripe for them to wage the war.

11 "At around 11 o'clock on the night of July
12 7, 1937, a few shots were heard to have been fired
13 from the outskirts of Wan-ping city. Investigation
14 reports showed that the Japanese troops were then
15 staging maneuvers. I directed close attention to
16 this matter. Soon Mayor Ching telephoned me that a
17 protest had been lodged by MATSUI, commander of the
18 Japanese Special Service Corps, alleging that one of
19 the Japanese soldiers was found missing after the
20 Chinese garrison forces at Wan-ping had opened fire
21 at the Japanese maneuvering troops, and demanding
22 that the Japanese troops should be allowed entry into
23 the city to conduct searches. I was instructed to in-
24 vestigate into the matter at once and submit a re-
25 port. A number of my men were detailed and sent

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1 out to investigate inside as well as outside of the
2 city. But no missing soldier was ever found. I
3 immediately proceeded to Peiping where I reported to
4 Mayor Ching. Pressed for a settlement by Commander
5 MATSUI, I was ordered to take up negotiations, in the
6 company of Mr. Wei Tsung-han, Chairman of the Foreign
7 Affairs Committee, Mr. Lin Ken-yu, member of the
8 Committee and Mr. Chow Yun-yieh, Director of the De-
9 partment of Communications, under the Pacification
10 Headquarters, with the Japanese representatives.
11 Commander MATSUI insisted that it was true that they
12 had one soldier missing and kept on demanding the
13 entry of the Japanese troops into the city to con-
14 duct searches by themselves. I refused it out-
15 rightly and recalled that the Japanese Consul-General
16 at Nanking, Mr. KURAMOTO, who was claimed to have
17 been missing, was found to have hidden himself for
18 the purpose of putting blames on the shoulders of
19 the Chinese government. I hinted that this particu-
20 lar Japanese soldier might have tried to imitate what
21 the Japanese Consul-General had done. Commander
22 MATSUI denied the fact. As a result of the negotia-
23 tion, it was decided that both Japanese and Chinese
24 authorities should jointly send members out to Wan-
25 ping to conduct an investigation on the spot, and that

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DIRECT

1 a satisfactory settlement should be reached. Rep-
2 resentatives from our side included Messrs. Lin and
3 Chow and myself, while the Japanese representatives
4 were Messrs. TERAHIRA and SAITO. I was also visited
5 by Commander MUDA of the Japanese army who intimated
6 to me that since the situation had been very serious,
7 I should have full authority to settle the matter on
8 the spot and that if I had to refer to the authori-
9 ties at Peiping for instructions, there might not
10 be time enough. My answer was that before institu-
11 ting a preliminary investigation no settlement could
12 be made. In leaving the 'Legation Quarters' for Wan-
13 ping, Mr. Chow and SAITO started off in one car fol-
14 lowed by another car carrying Mr. Lin, TERAHIRA and
15 myself. Then we approached Sha-k'an, i.e., Han-tung
16 on the Lukouchiao Railway, about a mile from Wan-ping,
17 I observed a unit of Japanese troops under the direc-
18 tion of MORITA, deputy regiment commander, already
19 taking up field positions at Sha-k'an. Mr. TERAHIRA
20 then asked me to alight from the car and said to me
21 that having seen this, I must now be able to realize
22 the seriousness of the situation. He further threaten-
23 ed that there was no time left for conducting any in-
24 vestigation and that I should give orders to open
25 the city gates. Without letting the Japanese troops

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1 enter into the city, he said, no settlement could be
2 effected. MORITA went so far as even trying to
3 threaten me by force. I took the situation very
4 easily and told them that since it was decided at
5 the office of the Japanese Special Service Corps that
6 the first step would be to conduct investigation and
7 that the second step would be to try to effect a
8 settlement, any departure from the decision would be
9 contradictory to it. I asked that if they would be
10 responsible for any aggravation of the situation,
11 should we not follow what had already been decided.
12 They later came to realize that it would be futile
13 for them to threaten me in such a way, and finally
14 agreed to abide by the decision previously reached,
15 that is, to conduct an investigation first. Then,
16 I went into the city with Mr. TERAHIRA.

17 "After entering the city, we held a dis-
18 cussion in my office. I had just ordered the Direc-
19 tor of Police Bureau to make his report on the search
20 when a number of gunshots were heard, and bullets
21 were zooming past our heads. Undoubtedly, the Japan-
22 ese troops had already opened fire. A few minutes
23 later, our guards on the city walls began to return
24 firing. The duel lasted for about another hour. The
25 Japanese officer in command, MUDA, sent me a note,

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DIRECT

1 asking that I should go out of the city with Lt. Col.
2 Chi Hsin Ton who was then guarding the district and
3 try to effect a truce. I refused on the ground that
4 both Lt. Col. Chi and I had been charged with the duty
5 of guarding the city, and therefore, were not in a
6 position to leave without being so ordered. Thereupon,
7 Mr. Lin Ken-yu together with TERAHIRA went out, by
8 climbing over the city wall. Two hours had elapsed
9 since then, and we heard nothing from them. The
10 Japanese started shooting again, and we also returned
11 fire. The skirmishes lasted until 4 p.m. with con-
12 siderable losses on both sides. By five o'clock in
13 the afternoon, they again attacked us with trench
14 mortars and hit and blasted my office which was
15 entirely destroyed. Fortunately enough, I had removed
16 all my staff to a safer place a few minutes before
17 this happened. After 6 p.m., the firing quieted down.
18 The Japanese commander, one named KAWABE, Shozo, also
19 sent a note to me and asked me to go out of the city
20 for negotiation, failing which, I should see that all
21 the inhabitants be evacuated because they would bom-
22 bard the city with heavy artillery. I declined the
23 demand. At that moment, our reinforcements from
24 Changhsintien arrived, and that very night, our Big
25 Sword Company fought hand to hand against the Japanese

WANG

DIRECT

troops at Lungwanmiao. As this Company of ours was well trained and extremely brave, many Japanese soldiers were killed. The iron bridge which was hitherto occupied by the Japanese was recaptured. Being routed, the Japanese became quiet.

6 "The next morning, a telephone message was
7 received from Mayor Ching, stating that the Japanese
8 had asked for a discussion of truce, ostensibly owing
9 to the fact that a part of their troops were routed the
10 previous night. Accordingly, I was told that there were
11 three conditions included in the truce, namely, 1) both
12 sides shall stop forthwith all activities of war; 2)
13 troops of both sides shall return to their respective
14 positions; and 3) the garrison duties of the city shall
15 be taken over by the Peace Preservation Corps of the
16 Northern Hopei Province. The Peace Preservation Corps
17 had then a force of three hundred strong, which was
18 then expected to arrive in two hours' time. Meanwhile,
19 a Japanese adviser, Mr. KASAI and his interpreter, Mr.
20 AIZAWA, came into the city with some wine, allegedly for
21 celebrating peace. But shortly after they left, firing
22 again started. That was about 4 p.m. The Peace
23 Preservation Corps had not yet then arrived. Inquiry
24 was made, and I was told that when the Corps passed
25 through Tachints'un (midway between Peiping and

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DIRECT

1 Lukouchiao) they were halted by the Japanese troops
2 and that fighting had already been in progress between
3 them. The Peiping authorities then took up the matter
4 with the Japanese army headquarters represented by
5 HASHIMOTO. The latter, however, refuted what was pre-
6 viously agreed upon and stated that the Peace Preservation
7 Corps did not need a force of three hundred men and that
8 they did not have to carry machine guns. We tried to
9 resist this demand, but to no avail. Consequently,
10 only one hundred fifty men of the corps entered into
11 the city and the machine guns were also not brought in.
12 The Japanese Army sent their advisers, NAKASHIMA and
13 SAKURAI over, together with our Mr. Lin Ken-yu and
14 Mr. Chow Sze-chin, members of the General Staff, to
15 supervise the withdrawal of troops. Abiding with the
16 agreement, our units under the command of Lt. Col. Chi
17 Hsin-wen retreated to their original line. The Japanese
18 units were then withdrawn toward Fengtai. But it
19 was later found out that some one hundred Japanese
20 soldiers along the railway tunnel were not withdrawn.
21 On being asked, NAKASHIMA promised that they would all
22 be withdrawn and guaranteed that no fighting would be
23 ever resumed. During midnight that night, the Japanese
24 troops there again fired at the city for almost half an
25 hour. With refusal of the Japanese to withdraw their

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DIRECT

troops along the railway, I knew for sure that they were inclined to be tricky. The Japanese, having built some military constructions there, would surely try to stick to that place. With this ambition unabated, I was afraid that the truce was but a scheme devised by the Japanese to gain time. I persistently asked NAKASHIMA who was then supposed to supervise the withdrawal, to hasten his side to fulfill the conditions as set out and agreed upon. He agreed to go to Peiping with me to effect a settlement there. The next morning, I proceeded to Peiping with NAKASHIMA, and when the train passed through Hantung (a tunnel) I did observe a few Japanese soldiers standing on guard outside Hantung. This served to prove constructively the Japanese intrigues.

15 "On arrival at Peiping, I went to Mayor
16 Ching's residence where I met General Feng Chih-an,
17 Chairman of Hopei Province, Colonel Cheng Hsi Hsien,
18 Commander of the Peace Preservation Corps of the Northern
19 Hopei. The Japanese adviser, SAKURAI, and secretary,
20 SAITO, came in a few minutes later. I made a report
21 to Mayor Ching and Chairman Feng on the refusal of the
22 Japanese troops to withdraw from the railway line.
23 Mayor Ching then called NAKASHIMA, SAKURAI, SAITO,
24 Cheng Hsi-Hsien and myself to a meeting and discussed
25 the matter thoroughly. SAITO offered the explanation

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DIRECT

1 that because some of the corpses of Japanese soldiers
2 killed in action were not found yet, a certain number
3 of Japanese troops were, therefore, stationed there
4 and promised that as soon as the corpses were found,
5 they would immediately withdraw. I asked why did they
6 need to station troops there when they were trying to
7 locate the corpses. SAITO replied that if the size of
8 troop was too small, they were afraid that they might
9 be murdered by the Chinese army, and that for the sake
10 of self-defense, they had to station a large size of
11 troops there. Mayor Ching considered this as an evasion
12 and some heated argument ensued. Finally, it was agreed
13 an unarmed search party should be organized, with 10 men
14 from our side and 10 from the Japanese army. All these
15 men should carry no arms, and they were given one day
16 to conduct and finish the search. Whether or not they
17 found the corpses, the Japanese were to withdraw upon
18 expiration of that one day's time. Having no pretext
19 nor means to drag the matter further, they agreed to
20 this. While we were discussing the organization of
21 the search party, NAKASHIMA and his people left the
22 meeting without announcing their departure. Then,
23 we received telephone messages from various sources,
24 informing us that the Japanese army had sent some
25 reinforcements from Kupeikou, Shanhaiikwan and other

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DIRECT

1 places, totalling not less than two Japanese Divisions.
2 Some airplanes were reported to have arrived at
3 Tientsin. A part of the Japanese troops were observed
4 marching toward Lukouchiao. Meanwhile, communications
5 between Peiping and Wan-ping were also broken up. That
6 the Japanese had frequently changed their attitudes
7 showed nothing but their intrigue. They oscillated
8 between fighting and peace-making in order to gain time.
9 Not a few days after the war started, they came to
10 realize that they had under-estimated our strength.
11 Not only we put up a very satisfactory defense at
12 Lukouchiao, but also we made some gains at Papaoshan
13 (midway between Peiping and Mengtoukou). The attempt
14 of the Japanese to overpower us with one division of
15 troops then stationed at Tientsin was, of course,
16 frustrated. With the Japanese intrigues bared, I knew
17 for sure that the outbreak of major warfare would
18 follow soon. With nothing to hope for in the way of
19 peaceful or diplomatic negotiations, I left Peiping
20 for Wan-ping through Mentoukou and Changhsintien.

21 "Ever since then, fighting was inter-
22 mittently going on until the 22nd of July, when rumor
23 of another truce was in the air again. The Japanese
24 asked the Chinese authorities to replace the bellicose
25 37th Division and transfer it to southern Hopei, and

WANG

DIRECT

1 suggested that the points along Peiping and Lukouchiao
2 be garrisoned by the 132nd Division of the 29th army.
3 They would then withdraw toward Fengtai. Some headway
4 was made out of the negotiation, and a cease-fire order
5 was given. However, the Japanese ceased fighting in
6 daytime but kept on shelling at the city in the night.
7 On being asked for an explanation, they pretended that
8 this would serve as a cover for the troops to withdraw.
9 On the 26th, they suddenly sent over an ultimatum
10 demanding the withdrawal of our 37th army from Peiping
11 within 24 hours. Being so cornered and pressed, our
12 authorities ordered to attack. A very fierce counter-
13 attack was launched by our forces at Lukouchiao and
14 Papaoshan, and onslaught was made toward Fengtai. On
15 the 27th, the railway station at Fengtai was recovered.
16 But on the 28th, the Japanese concentrated all their
17 forces and attacked us near Nan-yuan, with the help
18 of army airplanes and artillery. The fight lasted
19 until 2 p.m. General Chao Teng-yu, Commander of the
20 Division and General Toong Lin-ke, Deputy-Commander of
21 the 29th army were killed in action. Chairman Sung
22 Cheh-yuan, following instructions from the Supreme
23 Commander, left for Faotung to assume his command,
24 while General Chang Tze-chung, Division Commander, was
25 instructed to stay on in Peiping, to help the various

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DIRECT

troops coordinating their defense. I was, however, instructed to proceed to Paoting also.

"Judging from the above accounts, one would readily realize that the Japanese invasion was a studied and systematic scheme which was not meted out overnight. They should be made to shoulder the full responsibilities of the war.

Recorded by Wang Len-ch'ai, (sealed)
Formerly, Magistrate of Wan-ping
Hsien and concurrently,
Executive Supervisor for the
Third District of Hopei Pro.

WANG

CROSS

1 The defense, if the Court please, may cross-
2 examine.

3 THE PRESIDENT: Mr. Levin.

4 MR. LEVIN: Mr. President, I desire to call
5 the attention of the Tribunal to the fact that a very
6 substantial portion of this affidavit consists of
7 conclusions, opinions, and judgments of the witness
8 himself. We leave it to the judgment of the Tribunal,
9 in view of the fact that that defect is inherent in
10 the use of affidavits. I think that the prosecution
11 is subject to some rather severe criticism for the
12 insertion of a paragraph such as the last paragraph
13 of this affidavit.

14 THE PRESIDENT: The affidavit, I think, was
15 taken in China, Mr. Levin. We realize it has a lot
16 of objectionable matter.

17 MR. HAYASHI: I am HAYASHI, Itsuro, counsel
18 for the defendant, HASHIMOTO, Kingoro.

19 CROSS-EXAMINATION

20 BY MR. HAYASHI:

21 Q You have stated that, together with General
22 Chi Hsin Wen, you refused the offer of truce -- the
23 truce offered by General Mutaguchi? When was that?

24 A I didn't actually refuse the truce offered.
25 The fact was General MUDA, the Regiment Commander,

WANG

CROSS

1 asked me to go with Colonel Chi Hsin Wen -- to go
2 out of the city and have a conference.

3 THE MONITOR: To go out to their head-
4 quarters -- to their Japanese headquarters.

5 A (Continuing) Since I and Colonel Chi were
6 given the responsibility of protecting the city, and
7 judging by the fact that the Japanese was actually
8 attacking the city, we were not in a position to
9 leave the city and go out to their headquarters for
10 a conference.

11 Q You have stated in your affidavit that your-
12 self and Colonel Chi, because of your responsibility
13 for defending the city, refused, and because you were
14 unable to leave your position, refused this truce --
15 offer of a truce. Did you actually say this?

16 A I didn't refuse the truce offer.

17 Q May I ask you again: If you say you did
18 not refuse this offer, then is your statement in the
19 affidavit that you did refuse this offer false?

20 A I only refused to go out to the headquarters
21 of this regiment.

22 Q Then, in your affidavit, you have stated
23 that you did not go, you refused to go to see General
24 Mutaguchi about this truce offer; but what was the
25 actual attitude which you took at the time regarding

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1 this offer?

2 A Colonel MUDA didn't say that he actually
3 offered a truce. He only asked me to go out of
4 the city to confer with him in his headquarters.

5 Q Then, since you refused General Mutaguchi's
6 offer of a conference to establish a truce, does not
7 the responsibility for having obstructed the truce,
8 which would otherwise have been established, rest
9 upon your shoulders?

10 THE PRESIDENT: There is no need to answer
11 that question, which is based on an utterly unfair
12 construction of the affidavit, which must be very
13 obvious to counsel. The witness simply said that he
14 was invited to go outside the city to negotiate, but
15 that his duties would not let him go.

16 Q You have also refused an offer from General
17 KAWABE, Shozo, to a conference in order to establish
18 a truce. When was this?

19 A It was five o'clock in the afternoon, the day
20 of July 8, 1937.

21 Q Is your reason for having refused this in-
22 vitation the same as your reason for having refused
23 General Mutaguchi?

24 A Yes, the same.

25 Q Is it not rather because reinforcements

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1 from Chang Sin Tien had reached you and that your
2 defenses had been strengthened?

3 A It was not so. I ordered Mr. Lin Ken-yu
4 to go out of the city to negotiate with Colonel
5 Mutaguchi early in the morning. That proves that I
6 had never the intention to refuse any offer or any
7 discussion.

8 Q At what hour of the 8th of July did the
9 reinforcements from Chang Sin Tien enter Wan-ping City?

10 A In the afternoon of July 8.

11 Q Do you mean to say, then, that these rein-
12 forcements entered Wan-ping City before General
13 KAWABE's invitation to a conference?

14 A No, there wasn't any reinforcements coming
15 in before General KAWABE, Shozo, asked me to negotiate.

16 Q Was not the battle of July 8 -- on the night
17 of July 8 -- at Lunwanmiao begun by the -- planned by
18 the Chinese Big Sword Unit?

19 A Because we didn't have any heavy artillery
20 along Wan-ping City and the adjacent areas, and while
21 the Japanese Army were attacking the city with heavy
22 artillery, and in the meantime captured the Lunwanmiao
23 stronghold, so we dispatched this Big Sword Unit to
24 recapture Lunwanmiao.

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G 1 Q Did the Chinese Army begin the battle of
r 2 Lunwanmiao while the conferences between Lin Ken-yu
e 3 and General KAWABE were in progress?
n 4

b 5 THE MONITOR: Colonel MUTAGUCHI was in
e 6 progress?
r 7

g 8 A I instructed Mr. Lin Ken-yu to see Colonel
B 9 MUTAGUCHI in the morning while the Big Sword Unit
a 10 fought the battle long in the evening, that is to
r 11 say, in the night.
t 12

o 13 Q Why did the Chinese move a large army
n 14 against Linwanmiao while the negotiations for an
b 15 armistice between Lin Ken-yu and General MUTAGUCHI
e 16 were still in progress?
r 17

g 18 A You must observe the time element. The
B 19 talk between the two parties was in progress in
a 20 the morning while the Japanese opened fire at the
r 21 city in the afternoon, and my official residence was
t 22 blown out at around four o'clock in the afternoon.
o 23 And the Chinese Big Sword Unit attacked Lunwanmiao
n 24 in the night, at twelve o'clock.
b 25

e 26 Q Then, did the Chinese attack Lunwanmiao
r 27 after General KAWABE of the Japanese Army had asked
t 28 for truce negotiations and without sending a reply
o 29 to this request?

n 30 A By that time I had already replied to

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1 General KAWABE to the effect that I sincerely agree
2 with him in obtaining a truce between the two
3 parties but refused to go out of the city to ne-
4 gotiate with him in his headquarters.

5 Q Then, may I understand that the Japanese
6 Army attacked at four p.m., that you agreed to
7 General KAWABE's request for truce negotiations at
8 five p.m., and that the Chinese Army attacked Lun-
9 wanmiao at twelve p.m.?

10 A Since the very beginning, at about six
11 o'clock in the morning, the Japanese began to
12 attack Wan-ping city. The fighting did not stop
13 until evening.

14 Q Then, why do you think that in spite of
15 you having agreed to General KAWABE's request for
16 truce negotiations the Chinese Army opened hostili-
17 ties again at twelve o'clock?

18 A I wrote the reply to General KAWABE at
19 five o'clock in the afternoon while the Japanese
20 heavy artillery bombarded the city at six o'clock
21 in the afternoon and cannoning the city. So, it was
22 entirely impossible for me to seek for a truce --

23 CHINESE MONITOR: Entirely impossible for
24 me just to sit down there without doing anything.

25 THE PRESIDENT: In substance, he is repeat-

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1 ing what he told you in page 5 of his affidavit, and
2 you have not broken him down.

3 We will adjourn now until half-past nine
4 tomorrow morning.

5 (Whereupon, at 1600, an adjourn-
6 ment was taken until Wednesday, 7 August,
7 1946, at 0930.)

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